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Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 11—SALES OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

Subpart A—Regulations Governing the Financing of Commercial Sales of Surplus Agricultural Commodities for Foreign Currencies

Subpart A of Part 11 is revised and amended as follows:

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11.1 Definition of terms.
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11.11 Price provisions.
11.12 Ocean transportation.
11.13 Additional responsibilities of importers and suppliers.
11.14 CSS Commodity Offices.
11.15 Effective date.

AUTHORITY: §§ 11.1 to 11.15 issued under sec. 102, 68 Stat. 455, as amended, 69 Stat. 44; 7 U.S.C. 1702, E.O. 10560, 19 F.R. 5927, 3 CFR, 1954 Supp. Interpret or apply secs. 2, 101, 102, 304, 68 Stat. 454, 455, 459; 7 U.S.C. 1691, 1693, 1701, 1702.

§ 11.10 Definition of terms.

For the purposes of this subpart:

(a) "The Act" shall mean Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended.

(b) "Purchase authorization" shall mean FAS Form 480–A, "Authorization to Purchase Surplus Agricultural Commodities with Foreign Currency", or FAS Form 480–A (Ocean Transportation) "Authorization to Procure Ocean Transportation", issued to an importing country pursuant to this subpart.

(c) "FAS" shall mean the Foreign Agricultural Service, U.S. Department of Agriculture.

(d) "CCC" shall mean the Commodity Credit Corporation, U.S. Department of Agriculture.

(e) "AMS" shall mean the Agricultural Marketing Service, U.S. Department of Agriculture.

(f) "CSS" shall mean the Commodity Stabilization Service, U.S. Department of Agriculture.

(g) "CSS Offices" shall mean the CSS Divisions, the CSS Commodity Offices listed in § 11.14 and any other offices or agencies which may succeed to the functions of such offices.

(h) "The Administrator" shall mean the Administrator of the Foreign Agricultural Service or his designee.

(i) "The Controller, CCC" shall mean the Controller, Commodity Credit Corporation, or his designee.

(j) "Importing country" shall mean any nation wtih which an agreement has been negotiated pursuant to section 101 of the Act.

(k) "Importer" shall mean any person or organization, governmental or otherwise, to which an importing country issues a subauthorization under a purchase authorization.

(l) "Approved applicant" shall mean the foreign bank or other agency named in any letter of commitment issued to a banking institution under this subpart and shall include any agent authorized to act on behalf of such an applicant.

(m) "Supplier" shall mean any individual, partnership or corporation who or which sells any agricultural commodity to an importer under the terms of a purchase authorization for delivery to such an importer in export channels, or who or which sells ocean transportation to an importer under the terms of a purchase authorizaion. The term "supplier" shall also include any ocean carrier which furnishes ocean transportation to an exporter under the terms of a purchase authorization.

(n) "Banking institution" shall mean a banking institution organized under the laws of the United States, any State, or the District of Columbia.

(o) "Delivery" shall mean the transfer to or for the account of an importer of custody and right of possession of the

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

commodity in export channels as specified in the purchase authorization.

(p) "Letters of credit" shall mean irrevocable commercial letters of credit issued, confirmed or advised by a banking institution on behalf of an approved applicant.

(q) "Ocean bill of lading" shall mean a nonnegotiable copy (or photostat) of an "On Board" bill of lading, or other type of ocean bill of lading with an "on board" endorsement dated and signed or initialed on behalf of the carrier.

(r) "Affiliate" shall mean (1) a U.S. branch office of the importer; or (2) a firm (a corporation, partnership or individual) which (i) owns or controls the importer or supplier; (ii) is owned or controlled by the importer or supplier; or (iii) is owned or controlled by the same firm which owns or controls the importer or supplier.

(s) "Form 106" shall mean "Advice of Vessel Approval" CCC Forms Nos. 106-1 (Supplier of Commodity (except Cotton)—yellow), 106-2, (Ocean Carrier—blue), or 106-3 (Cotton—white), or any or all of them, as applicable.

(t) "Ocean transportation" shall mean, and is interchangeable with, the term, "ocean freight".

(u) "Copy" shall mean a copy or photostat of an original document showing all data shown on the original, including signature or the name of the person signing the original, or, if the signature or name is not shown on the copy, a statement that the original was signed.

§ 11.2 General statement.

This subpart contains the regulations governing the operation of the program for the sale and exportation of surplus agricultural commodities for foreign currencies under the Act, including the submission of applications to purchase agricultural commodities for foreign currency under the Act, the issuance of purchase authorizations, and the financing of the sale and exportation of such commodities through private trade channels. Fees and charges imposed in connection with the exportation of commodities for the issuance or legalization of consular invoices or certificates of origin will not be financed. Sales of commodities for delivery to the importer ex dock or ex warehouse, country of original destination from the United States, will be financed only in the case of cotton. General information pertaining to the operation of this program and forms prescribed for use thereunder can be obtained upon request to the Director, Program Operations Division, FAS, U.S. Department of Agriculture, Washington 25, D.C.

§ 11.3 Applications.

An importing country, after the agreement pursuant to section 101 of the Act has been entered into, shall submit applications for purchase authorizations covering each commodity and containing such information as may have been requested by the Administrator. Applications shall be submitted in duplicate, addressed to the Adminitrator, FAS U.S. Department of Agriculture, Washington 25, D.C. Supplementary information with respect to applications may be required from time to time.

§ 11.4 Purchase authorizations.

(a) The Administrator shall provide for review of each application submitted pursuant to § 11.3 to determine whether approval of the application would be in accordance with the provisions of the Act and the policies of the U.S. Government. If such determination is favorable, the Administrator will issue appropriate purchase authorization(s) as soon as practicable after agreement by the importing country to the terms thereof.

(b) Each purchase authorization will specify the commodity to be purchased or shipped; the maximum dollar amount; the method of financing and the CSS office which will administer the financing operation on behalf of CCC; the periods during which contracts between importers and suppliers may be entered into and during which deliveries may be made; provisions governing the deposit of the foreign currency purchase price; and any other provisions deemed necessary by the Administrator.

(c) In order for contracts to be eligible for financing under a purchase authorizations:

(1) Contracts between importers and suppliers must be entered into within the specified contracting period and shall provide that deliveries must be made in export channels as specified in the purchase authorization within the specified delivery period, unless an extension of such contracting or delivery period is granted in writing by the Administrator.

(2) The supplier must be engaged in the business of selling for export from, or furnishing ocean transportation from, the United States; must maintain a bona fide business office in the United States, its territories or possessions; and must have a person, principal or agent upon whom service of judicial process may be had in the United States, its territories or possessions.

(3) Any contracts for a commodity, when the purchase authorization limits contracting to f.o.b. or f.a.s. terms, must be separate and apart from the contract for ocean transportation of such commodity.

(4) The contracted price must not be on a cost plus-a-percentage-of-cost-basis.

(5) An importer's request for offers pursuant to which an export sales contract is entered into must not preclude such offers from being made for shipment from any United States port(s). This requirement does not preclude the importer from accepting offers on the basis of shipment from port(s) which result in the lowest total landed cost of the commodity.

(d) Each purchase authorization issued shall be deemed to include the following provisions unless otherwise provided in such purchase authorization:

(1) *Modification or revocation.* The Administrator reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke any purchase authorization (including the termniation of deliveries thereunder). CCC shall reimburse suppliers for costs incurred in connection with firm sales contracts, and not otherwise recovered, as the result of such action by the Administrator: *Provided, however,* That such reimbursement shall not be made to a supplier if the Administrator determines that such action was taken by him because of failure by such supplier to comply with the requirements of this program.

(2) *Refund to CCC.* The importing country shall pay in U.S. dollars promptly to CCC upon demand by the Administrator the entire amount finaced by CCC (or such lesser amount as the Administrator may demand) whenever the Administrator determines that the importing country has failed to comply with any undertaking or commitment agreed to or made by it in connection with the transaction financed.

(3) *Discounts.* If a contract provides for one or more discounts (including, but not limited to, trade or quantity discounts and discounts for prompt payment), whether expressed as such or "commission" to the importer, only the invoice amount after discount (supplier's contracted price less all discounts) will be eligible for financing.

(4) *Commissions.* (i) A commission to a bona fide commercial or selling agent employed or engaged by the supplier to obtain a contract will be financed to the extent that such commission is not in excess of the rate or percentage customarily and usually charged for the services performed and the commodity involved.

(ii) No commission paid or to be paid to any agent, broker, or other representative of the importer to obtain a contract will be eligible for financing, whether included in the price of the commodity or separately stated. This is not applicable to ocean transportation brokerage commissions otherwise allowable under § 11.12(f).

(iii) If the supplier has employed any person or firm, other than a bona fide established commercial or selling agent, to obtain a contract under any argeement for a commission, percentage, or contingent fee, the contract is eligible only for the amount of the contract less the amount of any such commission, percentage or contingent fee.

(5) *Adjustment refunds*—(i) *Letter of commitment method of financing.* All claims by importers for adjustment refunds arising out of the terms of the contract or out of the normal customs of the trade, including arbitration and appeal awards, amicable allowances, and claims for overpayment of ocean transportation shall be settled by payment in United States dollars and such payment shall be remitted by the supplier for the account of the importer to the banking institution to which the supplier presented the documents covering the original transaction. The remittance to the banking institution shall be identified with the date and amount of the original payment, the commercial letter of credit number, and the applicable purchase authorization number. Upon demand by CCC the importing country shall pay to CCC an amount in U.S. dollars equal to the dollar value of the adjustment refunds.

(ii) *Reimbursement method of financing.* Special provisions relating to adjustment refunds will be contained in commodity purchase authorizations under the reimbursement method and in ocean transportation purchase authorizations.

(6) *Insurance for the account of the importer.* Where the supplier furnishes insurance in favor of or for the account of the importer, the policies or certificates of insurance shall provide that all claims shall be paid in U.S. dollars and

that the underwriter shall notify the Controller, CCC, at the time a claim thereunder is paid, indicating the purchase authorization number, the name and address of the supplier, importer and payee of the claim, the amount paid, the nature of the claim, the quantity of the commodity involved in the claim, the date of shipment, the bill of lading number, and the name of the vessel. Upon demand by CCC the importing country shall pay to CCC U.S. dollars in the amount paid by insurance underwriters. This subparagraph applies only where the cost of insurance is included in the net c.i.f. invoice price of the commodity financed pursuant to specific authorization for c.i.f. sales in the applicable purchase authorization.

(7) *Ocean transportation financed as part of the contracted price.* (i) The cost of ocean transportation will be financed as part of the contracted price only to the extent specificially provided in the applicable purchase authorization. In the absence of a specific provision in the applicable purchase authorization, the cost of ocean freight will not be financed by CCC as part of the contracted price and must not be covered by the net invoice price. Discharge costs on shipments under any export sales contracts where ocean freight is being financed as part of the contracted price may be for the account of the vessel only when in accordance with trade custom.

(ii) If the charter party or liner booking contract provides for more than one rate because of optional port loading or discharge, alternate routes, or any other option arising from ocean transportation, CCC will finance the lowest of such rates. Increased amounts (if any) due because of the use of the higher rated port, route, or other option, will be financed by CCC when reimbursement is requested therefor in accordance with the provisions of § 11.9 (a) (7).

(iii) Notwithstanding the foregoing provisions of this subparagraph, if the option is exercised conclusively prior to the issuance of ocean bills of lading, and such exercise of option is clearly reflected in such ocean bills of lading, the rate applicable to the option so exercised will be financed by CCC.

(8) *Ocean transportation financed separately from the commodity price.* (i) Reimbursement will not be made for demurrage incurred in excess of dispatch earnings. Amounts earned for dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; the balance, if any, shall be deducted from the amount of the final request for reimbursement when presented to CCC. Discharge costs may be for the account of the vessel only when in accordance with trade custom.

(ii) Contracts for ocean transportation shall not be eligible for financing by CCC if the supplier of the ocean transportation is also the supplier of the commodity, or is an affiliate of such supplier of the commodity, unless the supplier of ocean transportation is the owner of the vessel named in Form 106, or is the operator of such vessel by time charter, and the ocean freight rate for which reimbursement is claimed is not in excess of the rate originally contracted for with the importer.

(iii) If the charter party or liner booking contract provides for more than one rate because of optional port loading or discharge, alternate routes, or any other option arising from ocean transportation, CCC will finance the lowest of such rates. Increased amounts (if any) due because of the use of the higher rated port, route, or other option, will be financed by CCC when reimbursement is requested therefor in accordance with the provisions of § 11.9(b) (6).

(iv) (*a*) Notwithstanding the foregoing provisions of this subparagraph, if the option is exercised conclusively prior to the issuance of ocean bills of lading, and such exercise of option is clearly reflected in such ocean bills of lading, the rate applicable to the option so exercised will be financed by CCC.

(*b*) This subparagraph applies only where the cost of ocean freight is financed separately from the commodity price pursuant to a specific authorization in the applicable purchase authorization.

(9) *Refund of foreign currency.* Immediately after receipt by CCC of U.S. dollar payments from or for the account of importing countries pursuant to the provisions of subparagraphs (2), (5) or (6) of this paragraph, CCC will provide for payment to the importing country of the foreign currency equivalent of dollars received, provided such foreign currency is deposited for the transaction represented, as follows:

(i) For payment under subparagraph (2) of this paragraph the foreign currency equivalent will be at the agreed exchange rate in effect on the date of dollar disbursement for the transaction financed: *Provided,* That foreign currency will not be refunded to the extent that deposits of such currency have been made available to the importing country on a grant basis.

(ii) For payments under subparagraph (5) or (6) of this paragraph the foreign currency equivalent will be at the agreed exchange rate in effect on the last day of the calendar quarter during which dollar payment was remitted by the supplier or the insurer to or for the account of the importer, except that if there has been a change in the exchange system or structure of the importing country, such payment shall be made at the agreed exchange rate which was in effect on the date of dollar disbursement for the transaction financed, and except further that foreign currency shall not be paid under such subparagraph (5) of this paragraph where the dollars are to be reauthorized for replacement of the commodity.

(10) *Deposit of foreign currency.* The importing country shall provide, as hereinafter stated, for the deposit of foreign currency equivalent to dollars disbursed by banking institutions, or by CCC, except that foreign currency shall not be deposited for the amount of ocean freight differential stated on Form 106 for the tonnage involved in the shipment. Such deposits shall be at the rate of exchange for U.S. dollars generally applicable to import transactions (except imports granted a preferential rate) in effect on the date of each such dollar disbursement. Documentation for each such deposit shall be furnished to the United States Disbursing Officer, and shall show the number of the purchase authorization, the date and amount of the related dollar disbursement, the exchange rate applicable to the deposit, and the amount of foreign currency deposited. The times and circumstances under which deposits shall be effected for the several types of sales are as follows:

(i) *For transactions under the letter of commitment method of financing.* Where time drafts are accepted under letters of credit, deposits shall be made on the date of maturity of each such draft or on such earlier date that CCC disburses the amount of the draft to the banking institution. In the case of all other payments under letters of credit, deposits shall be made immediately after receipt by the approved applicant of documentation showing the amount of dollar disbursement to suppliers by banking institutions under such letters of credit.

(ii) *For transactions under the reimbursement method of financing (including ocean transportation financed separately from the commodity price).* Deposits shall be made immediately after receipt by the importing country or its designee of documentation showing the net amount of dollar reimbursement (after deduction of ocean freight differential, if any) by CCC to the importing country, or to its assignee, if the right to receive reimbursement under the purchase authorization has been assigned.

(11) *Cotton; future price fixation.* Under the letter of commitment method of financing, where prices have not been fixed prior to shipment, or prior to delivery ex warehouse or ex dock, provisional invoice may be presented under the letter of credit in an amount at or below the value of the cotton based on the close of the futures month in the futures market on which the contract is based, on the date of (i) the ocean bill of lading or (ii) the actual date of delivery ex warehouse or ex dock, whichever is applicable. In the event the market is not open on such date, the close of the next following day on which such market is open shall be used to determine such value. When the actual price fixation is made the supplier, if an additional amount is due him, shall present a final invoice under the letter of credit in accordance with § 11.9(a) (7).

NOTE: If the actual price fixation results in a refund owing to the importer, the supplier shall remit such amount together with the final invoice to the banking institution which paid the provisional invoice for the shipment involved, and the transaction shall be handled in the same manner as adjustment refunds under subparagraph (5) of this paragraph.

(e) FAS will make public, with respect to each purchase authorization, information necessary to enable suppliers

to initiate negotiations for sales under the program. Such information will be issued daily or as often as necessary in the form of a public release.

§ 11.5 Subauthorizations.

The importing country concerned will issue subauthorizations to importers within the terms of each purchase authorization. The importing country, in subauthorizing, shall instruct importers to use the purchase authorization number in placing orders, and shall specify to importers all of the provisions of the purchase authorization which are applicable to the subauthorization. Each importer to whom a subauthorization has been issued by his Government must inform his supplier that the transaction is to be financed under the Act and must give to his supplier the purchase authorization number that has been given to him. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

§ 11.6 Commodities eligible for financing.

(a) *Commodities grown or processed, in the United States.* Only surplus agricultural commodities grown in the United States, and, if processed, only the agricultural commodities which were grown and processed in the United States, are eligible for financing.

(b) *Commodity description and specification.* Only the commodity described and specified in the applicable purchase authorization shall be eligible for financing.

(c) *Cotton.* (1) Cotton, in order to be eligible for financing, must meet whichever of the following is applicable unless otherwise specified in the purchase authorization:

(i) The Universal Standards for American Upland Cotton and have a staple length of 1 3/16" or longer.

(ii) The Official Cotton Standards of the United States for American-Egyptian Cotton and have a staple length of 1 3/8" or longer.

(iii) The Official Standards of the United States for Sea Island Cotton and have a staple length of 1 3/8" or longer.

(2) Cotton grown in the continental United States which is located outside the United States will be eligible for financing hereunder, provided such cotton is sold to the importer ex warehouse or ex dock country of original destination from the United States. If such stocks are located in a country other than the importing country under the purchase authorization, the documentation evidencing shipment from the United States must be consistent, under good commercial practice, with transshipment to importing country.

§ 11.7 Methods of financing by CCC.

(a) *Letters of commitment to banking institutions.* Upon application therefor by the importing country, the Administrator will issue purchase authorizations providing for financing under letters of commitment. Upon submission of application therefor by the importing country, together with such assurances of foreign currency deposit, evidence of advance foreign currency deposit or other financial arrangements as may be required, the Controller, CCC, will issue letters of commitment to banking institutions, obligating CCC to make reimbursement for payments made, or time drafts accepted, for the contracted price (including ocean transportation and insurance when covered by the price of the commodity), made by them under letters of credit on behalf of an approved applicant. Procedures applicable to this method of financing are set out in § 11.8.

(b) *Reimbursement to importing countries.* (1) Upon application therefor by the importing country, the Administrator will issue purchase authorizations providing that reimbursement for the contracted price (including ocean transportation and insurance when included in the price of the commodity) will be made by CCC to the importing country upon submission of the documents required by § 11.9(a).

(2) Upon application therefor by the importing country, the Administrator will issue purchase authorizations providing that reimbursement for the cost of ocean transportation financed separately from the commodity price will be made by CCC to the importing country upon submission of the documents required by § 11.9(b).

(3) All requests for reimbursement, supported by the required documentation, shall be submitted to CCC not later than 210 days after expiration of the delivery period specified in the applicable purchase authorization or any extension thereof granted by the Administrator.

(4) The right to receive reimbursement under purchase authorizations may be assigned by the importing country to any bank, trust company or other financing institution in the United States. The assignment shall not be made to more than one party, and shall not be subject to further assignment, except that such assignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided by the purchase authorization, the right of any such assignee to obtain reimbursement shall not be content upon the deposit of currency of the importing country.

(5) Amounts improperly paid to an assignee by CCC may be collected by CCC by setoff from amounts due the assignee under the same purchase authorization. Such overpayments may also be collected by CCC by setoff against amounts due the same assignee under other purchase authorizations issued to the same importing country provided such assignee is notified of the amount to be collected by setoff at the time receipt of the assignment is acknowledged by CCC.

(6) No supplement, modification or revocation shall become effective as to irrevocable obligations issued by the assignee until the receipt by it from the Controller, CCC, of written notice of such supplement, modification or revocation and such supplement, modification or revocation shall in no event affect or impair the right of obtaining reimbursement to the extent of any payments made by such assignee prior to receipt of such notice, or any irrevocable obligation incurred under a letter of credit issued or confirmed by such assignee, prior to receipt of such notice, for which the assignee has not been repaid by the importing country (without, however, any obligation on its part to obtain such repayment). The term "purchase authorization" as used in any assignment of the right to receive reimbursement under a purchase authorization shall be deemed to include each such supplement or modification from and after receipt by the assignee from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving rights of reimbursement in its behalf.

(7) The required documents and requests for reimbursement shall be submitted to the CSS Office named in the applicable purchase authorization.

§ 11.8 Letters of commitment to banking institutions.

(a) Letters of commitment issued by CCC to banking institutions under this program will assure reimbursement to the banking institution, not in excess of a specified amount in dollars and in accordance with the terms of such letters of commitment, for payments made or drafts accepted under letters of credit for the account of an approved applicant, including the payment or acceptance of drafts for additional amounts in connection with transactions where the required documents have been previously submitted to CCC. Drafts submitted by suppliers for such additional amounts shall not be paid or accepted unless provided for in the letter of credit or unless authorized under the letter of credit by the approved applicant. Drafts accepted for such additional amounts shall mature not later than the date of maturity of the draft relating to the original transaction. Reimbursement for any drafts accepted will be made on the date of maturity of such drafts or on an earlier date if arrangements are made by the importer to deposit foreign currency on such earlier date.

(b) (1) Each letter of commitment will name the Federal Reserve Bank(s) to which drafts shall be presented by the banking institution in order to obtain reimbursement of amounts paid under the letters of credit, and will name the CSS Office which will administer the financing operation under the letter of commitment on behalf of CCC.

(2) All amendments to letters of commitment, except for reductions in amounts as provided in subparagraph (3) of this paragraph, shall be effected by the issuance by CCC of Form 328–1. Indication of acceptance by the banking institution is not required on increases in amounts of letters of commitment, but is required on all other types of amendments issued on Form 328–1. A copy, when acceptance is required, shall be promptly returned to CCC by the banking institution indicating acceptance or non-acceptance.

(3) The amount of a letter of commitment may be reduced by a banking

institution, when so requested by an importing country, by issuing a Notice of Reduction of Letter of Commitment, CCC Form 328–2.

(c) Payments made or drafts accepted by banking institutions in anticipation of a letter of commitment and falling within the scope of payments authorized by such a letter of commitment when issued will be deemed to be payments to be reimbursed thereunder.

(d) Each letter of commitment issued to a banking institution shall be deemed to incorporate the following terms and provisions:

(1) The application or request for, and any agreement relating to, any letter of credit issued, confirmed, or advised under a letter of commitment to a banking institution, may be in such terms and provisions as the approved applicant and banking institution may agree upon, and the approved applicant and the banking institution may agree to any extension of the life of, or any other modification of, or variation from the terms of any such letter of credit, subject to the following provisions:

(i) Where letters of credit provide for acceptance of time drafts such letters of credit shall specify that the discount and acceptance fees shall be for the account of the importer.

(ii) Such terms and provisions and any such extension, modification or variance shall be in no respect inconsistent with or contrary to the terms and provisions of the letter of commitment. In case of any inconsistency or conflict, the terms and provisions of the letter of commitment shall prevail. In any event every application for a letter of credit shall include the substance of the directions as to documentation required by this subpart.

(2) Immediately after acceptance of time drafts, the banking institution shall forward the documents required by § 11.9(a) to the CSS Office named in the letter of commitment. Drafts drawn by the banking institution on CCC shall be presented to the Federal Reserve Bank and shall be supported by the documents required by § 11.9(a) or shall be supported by CCC Form 339, "Advice of Receipt of Documents", if such documents were submitted to CCC prior to presentation of the draft.

(3) The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate or invoice-and-contract abstract. The rights of the banking institution under the letter of commitment will not be affected by the fact that such abstracts may be incomplete, or may indicate noncompliance with any provision of this subpart, or of the purchase authorization, or of the letter of commitment, or may be inconsistent with other required documents.

(4) Each letter of credit, modification, or extension shall bear the number of the applicable letter of commitment and purchase authorization. The banking institution shall make available to the CSS Office named in the letter of commitment, upon request, a copy of each letter of credit issued, confirmed, or advised by it, and of any extension or modification thereof; a copy of each application and agreement relating to such letter of credit; a copy of each document in its possession received by it under the letter of credit; and detailed advise of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit.

(5) Acceptance by the banking institution of any document in the ordinary course of business in good faith as being genuine and valid and sufficient in the premises, and the delivery thereof to the Federal Reserve Bank, or the CSS Office as required, shall constitute full compliance by the banking institution with any provision of this subpart, the purchase authorization, or the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments or acceptances made by it against documents so accepted, notwithstanding that such payments or acceptances may be made in connection with a sale at a price in excess of the maximum specified in § 11.11.

(6) No supplement, modification or revocation shall become effective as to the banking institution until the receipt by it from the Comptroller, CCC, of written notice of such supplement, modification or revocation, and such supplement, modification or revocation shall in no event affect or impair the right of reimbursement to the extent of any drafts accepted or payments made prior to receipt of such notice, or any irrevocable obligation incurred under a letter of credit issued or confirmed by it, prior to receipt of such notice, for which the banking institution has not been repaid by the approved applicant (without, however, any obligation on its part to obtain such repayment). The term "purchase authorization" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving rights of reimbursement in its behalf.

(7) In the event the Administrator shall revoke such purchase authorization or supplement or modify the same in relation to the disposition of any document or documents and the Controller, CCC, shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Controller, CCC, to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it, and it shall be repaid and reimbursed by CCC for the costs, expenses and liabilities paid or incurred by it in relation to such instruction. Such repayment and reimbursement shall be made by CCC upon application therefor filed with the CSS Office named in the letter of commitment and supported by an itemized statement of the costs, expenses and liabilities certified to by an officer of the banking institution. The banking institution shall have no obligation or liability whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instructions of the Controller, CCC.

(8) Drafts drawn by banking institutions on CCC shall be presented not later than 210 days after expiration of the delivery period specified in the applicable purchase authorization or any extension thereof granted by the Administrator.

(9) The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

§ 11.9 Documentation.

Drafts drawn on CCC and requests submitted to CCC for reimbursement shall be supported by the documents required by this section or previously submitted to CCC, except when and to the extent otherwise provided in the applicable purchase authorization, and except when and to the extent the Controller, CCC, determines that the intended purpose of a document is served by documentation otherwise available to or under the control of CCC, or by alternate documentation specified in such determination. Each document must be identified with the appropriate purchase authorization number or be readily identifiable therewith. The commodity purchase authorization number is acceptable for copies of ocean bills of lading submitted in accordance with paragraph (b)(2) of this section. All other documents required for reimbursement under a direct reimbursement purchase authorization for ocean transportation must bear the ocean transportation purchase authorization number (including the "OT" suffix) or be readily identifiable therewith.

(a) Contracted price (including ocean transportation and insurance where covered by the commodity price):

(1) Signed originals of supplier's certificate, with invoice-and-contract abstract on the reverse side (CCC Form 329) set out in paragraph (c) of this section, as follows:

(i) When the cost of ocean transportation is financed by CCC, in whole or in part, on transactions other than ex warehouse or ex dock, two Forms 329 are required, covering:

(*a*) The supplier's net invoice price expressed in dollars (to be executed by the supplier of the commodity), and

(*b*) The cost of ocean transportation (to be executed by the ocean carrier).

(ii) When no part of the ocean transportation cost is being financed by CCC and on ex warehouse and ex dock transactions, only the Form 329 covering the supplier's net invoice price for the commodity expressed in dollars, executed by the supplier of the commodity, is required.

(2) One copy of the ocean bill of lading.

(3) One copy (or photostat) of supplier's detailed invoice showing quantity, description, contracted price and net invoice price expressed in dollars, and basis of delivery (e.g., f.o.b. vessel, c.&f.) of the commodity. Whenever the Form 106 provides for an ocean freight rate

differential on a c.&f. or c.i.f. sale and authorizes financing of ocean transportation costs by CCC, the supplier's invoice shall show a computation of the dollar amount of ocean freight differential. In arriving at the net invoice price there shall be deducted:

(i) The cost of ocean transportation, or portion thereof, which is not being financed by CCC where the cost of ocean transportation is included in the contracted price.

(ii) All discounts from the supplier's contracted price through payments, credits, or other allowances made or to be made to the buyer or consignee.

(iii) All purchasing agents' commissions applicable.

In addition to the above information, the supplier's invoice shall be marked "Paid" in the case of reimbursement method of financing.

(4) Signed original of Form 106–1 or 106–3.

(5) One nonnegotiable copy (or photostat) of the insurance certificate or policy where the cost of insurance is covered by the price of the commodity to be financed by CCC. This does not apply to ex dock and ex warehouse sales of cotton.

(6) CCC Form 331, "Advice of Payment or Acceptance of Draft" signed by an officer of the banking institution in the case of financing under the letter of commitment method. This form is not required under the reimbursement method of financing.

(7) (i) In the case of additional payments, including payments in final settlement of cotton sales contracts providing for future price fixation, in connection with transactions where the required documents have been previously submitted to CCC, the documents required by subparagraphs (1), (3) and (6) of this paragraph and the supplier's invoice, in addition to the information required by subparagraph (3) of this paragraph, must show the date, serial number and amount of the original invoice, and the basis for the additional amount claimed.

(ii) In the case of invoices which are stated to be for additional payments for amounts due because of the exercise of a higher rated option when optional ocean transportation rates are provided in the liner booking contract or charter party, in addition to the documents required by subdivision (i) of this subparagraph, there must be submitted a statement signed by the ship's master or owner (or agent of either of them) showing exercise of the higher rated option.

(8) Signed original of CCC Form 329–3 "Statement of Transmittal of Ocean Bills of Lading" showing that two nonnegotiable copies of ocean bills of lading have been sent to the Administrator, Foreign Agricultural Service, Washington 25, D.C. This form is not required on ex warehouse and ex dock sales.

(9) *Special documentation.* Documentation for specific commodities as follows:

(i) *Wheat and feed grains.* (*a*) One copy of a weight certificate issued at point of loading to vessel.

(*b*) One copy of an Export Grain Inspection Certificate issued by an inspector holding a license under the United States Grain Standards Act, or a commodity Inspection Certificate for grain issued by an inspector holding a license under the Agricultural Marketing Act.

(*c*) In the case of bagged wheat or bagged feed grains, the ocean bill of lading shall show the net weight of bags and the gross weight of the commodity loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier: "The undersigned hereby certifies that the weight of the bags is _____ pounds."

(*d*) In the case of bagged wheat or bagged feed grains, the supplier's detailed invoice shall show the size and type of bags and whether they are new or used.

(ii) *Wheat flour.* (*a*) One signed copy of CCC Form 362—Flour Export Program—Cash Payment, Declaration of Sale, showing under item 3 the complete description of the flour including the extraction rate, ash content, and the class of wheat from which the flour was milled.

(*b*) The supplier's detailed invoice shall show the gross weight of the flour in bags, the weight of the bags, and the net weight of flour invoiced. The invoice shall also show the size and type of bags.

(iii) *Dry edible beans.* (*a*) One copy of a weight certificate.

(*b*) The ocean bill of lading shall show the net weight of the beans loaded aboard the vessel, or shall show the number of bags and the gross weight of the beans loaded aboard the vessel: *Provided,* That the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier: "The undersigned hereby certifies that the weight of the bags is _____ pounds."

(*c*) One copy of a lot inspection certificate(s) issued by or under the superivsion of the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(*d*) The supplier's detailed invoice shall show the size and type of bags.

(iv) *Rice.* (*a*) The ocean bill of lading shall show the net weight of the rice loaded aboard the vessel, or shall show the number of bags and the gross weight of the rice loaded aboard the vessel: *Provided,* That the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier: "The undersigned hereby certifies that the weight of the bags is _____ pounds."

(*b*) One copy of a lot inspection certificate(s) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(*c*) The supplier's detailed invoice shall show the kind and size of bags and whether they were new or used.

(v) *Cotton; except ex dock and ex warehouse sales.* (*a*) In lieu of the bill of lading required by subparagraph (2) of this paragraph there may be submitted a nonnegotiable copy (or photostat) of a Port or Custody Bill of Lading dated within the delivery period specified in the purchase authorization, with onboard endorsement dated not later than 20 days after the final delivery date specified in the applicable purchase authorization.

(*b*) One copy (or photostat) of the weight and tare sheets certified by the United States warehouseman, if sale is on the basis of certified United States warehouse weights. The certification of the United States warehouseman, if used, must show mark, supplier's name, CCC Registration Number, Purchase Authorization Number, gross weight, type of bagging, number of ties, and weight of patches, if any, for each bale and the tare. The gross weight minus tare shall constitute net weight. The certification must also state that cotton in the shipment was weighed after the last sampling and not more than 30 days prior to the date of certification.

(*c*) The supplier's invoice, in addition to the requirements of subparagraph (3) of this paragraph, shall show the contract terms of weight settlement, and unless the sale is made against private types, the quality described in terms of the Official Cotton Standards of the United States.

(vi) *Cotton sold ex dock or ex warehouse.* (*a*) A letter from a United States Bank addressed to the banking institution to which documents will be presented under the letter of credit issued to the supplier, in which the United States bank advises that it has authorized or will authorize its foreign correspondent holding the documents of title to the cotton, described in the accompanying invoice and certification of independent controller, to release such documents of title to or for the account of the importer. Such letter must be dated within the delivery period specified in the applicable purchase authorization.

(*b*) In lieu of the ocean bill of lading required by subparagraph (2) of this paragraph, a nonnegotiable copy (or photostat) of the ocean bill of lading, evidencing shipment of the cotton from the United States not later than the final delivery date specified in the applicable authorization, and showing identification marks of the bales shipped.

(*c*) If the cotton has been released by the carrier prior to delivery to importer, ex warehouse or ex dock, an identification certificate executed by an independent controller at the port of entry certifying to the unloading of the cotton and the issuance of the specific warehouse receipts or other applicable title documents. The Independent Controller's Identification Certificate shall be in the following form:

_____
(Landing port)
_____ 19__

The undersigned certifies:

That _____ bales of cotton marked
(Quantity)
_____ shipped from _____
(U.S. port of exit)
by _____ under bill of
(Name of shipper)
lading No. ____ issued _____ 19__
(Date of B/L)
by _____ were
(Name of steamship company)

transferred under our supervision from SS: _____ flag _____ on
(Name of vessel)
_____ 19__ to the _____
at _____ and warehouse
(City and country)
receipt No. _____ was issued therefor in the name of _____
(Name of shipper and/or his agent or bank)

_____
(Name of independent controller)
By _____
(Authorized signature)

A separate warehouse receipt shall be issued for each lot of cotton shipped under one mark and a separate independent controller's identification certificate shall be made for each such lot warehoused. For ex dock delivery, the applicable title document and number should be inserted in place of warehouse receipt and number.

(*d*) The supplier's invoice in addition to the requirements of subparagraph (3) of this paragraph, shall show the contract terms of weight settlement, and unless the sale is made against private types, the quality described in terms of the Official Cotton standards of the United States.

(vii) *Unmanufactured tobacco.* The supplier's invoice shall identify the tobacco by U.S. type and recapitulate the quantity and value of the tobacco by type. This information is required on only one copy of the detailed invoice and such copy shall be included with the documents submitted to CCC. The supplier's detailed invoice shall contain a certification that the tobacco covered by the invoice was produced in the continental United States or Puerto Rico in the stated year or prior years in accordance with the purchase authorization.

(viii) *Cottonseed oil and soybean oil.* (*a*) One copy of weight certificate.

(*b*) One copy of a commodity inspection certificate issued by the Inspection Branch of the Grain Division, Agricultural Marketing Service, USDA; or one copy of a chemical analysis certificate issued by a commercial laboratory which shall bear the following certification: "The undersigned hereby certifies that the chemical analysis certificate was issued as a result of the analysis of samples received from (name and address of sampler or inspector), and that such chemical analysis was performed in accordance with the procedure prescribed in the Trading Rules of the National Soybean Processors Association, or in the Trading Rules of the National Cottonseed Products Association."

(*c*) If the chemical analysis is performed by a commercial laboratory, one copy of a certificate of the sampler or inspector stating that the samples were drawn in accordance with American Oil Chemists Society Official Method C 1–47 (Formerly C 1–41, revised November 1947) and any amendments thereto.

(*d*) In the case of oil shipped in drums, one copy of a certificate issued by the weighmaster or inspector stating whether the drums are new or used, and that such drums are suitable for export shipment of soybean oil or cottonseed oil.

(10) Such additional or substitute documentation, if any, as may be required for reimbursement by the purchase authorization or the letter of commitment.

(b) Cost of ocean transportation where financed separately from commodity price:

(1) Signed original of supplier's certificate, with invoice-and-contract abstract on the reverse side (CCC Form 329, set out in paragraph (c) of this section) to be executed by the carrier, covering the dollar cost of ocean transportation.

(2) One copy of the ocean bill of lading.

(3) One copy (or photostat) of carrier's detailed invoice marked "Paid".

(4) Signed original of the Form 106–2, or 106–3 in the case of cotton.

(5) One copy (or photostat) of the charter party in the case of shipment by dry bulk cargo vessel or tanker.

(6) In the case of additional payments for either the balance (if any) due on a shipment after initial reimbursement of 90 percent of the dollar cost of ocean transportation as provided in paragraph (d) (2) of this section, or for the balance (if any) due because of exercise of a higher rated option following payment for a lower rated option as provided in § 11.4(d) (8) the following shall apply:

(i) For the balance, if any, of the final 10 percent where dispatch is involved:

(*a*) A copy of the laytime statement(s) signed by the ship's master or owner and the charterer or consignee. Agents' signatures are acceptable.

(*b*) Where a copy of the charter party has not been presented pursuant to subparagraph (5) of this paragraph a copy of the freight contract showing the terms of dispatch and demurrage.

(*c*) A copy of final freight bill.

(*d*) Supplier's Certificate for the balance.

(ii) Where invoices are stated to be for the balance, if any, due because of the exercise of higher rated option:

(*a*) Copy of the final freight bill marked "Paid".

(*b*) Supplier's Certificate for the balance.

(*c*) A statement signed by the ship's master or owner (or agent of either) showing the exercise of the higher rated option.

(7) Such additional documentation, if any, as may be required by the purchase authorization.

(c) The supplier's certificate is as follows:

COMMODITY CREDIT CORPORATION FORM 329
(May 19, 1959)

1. Purchase Authorization No. _____
2. Invoice Amount after Discount _____

SUPPLIER'S CERTIFICATE

The supplier hereby acknowledges notice that the invoice amount shown above as claimed to be due and owing under the terms of the underlying contract, is to be paid out of funds made available by the Commodity Credit Corporation under the Agricultural Trade Development and Assistance Act of 1954, as amended, and agrees with CCC that he will promptly make appropriate refund to the CSS Office named in the purchase authorization for breach by him of any of the terms of this certificate and that he will furnish promptly to CSS, USDA, upon request, such additional information in such form as may be required concerning price, or any other details of the contract. The supplier certifies that:

(1) The claimed sum is due and owing to the supplier under the terms of the underlying contract.

(2) He has complied with all applicable terms and provisions of the purchase authorization and of the regulations pertaining to Title I of Public Law 480, as amended.

(3) All applicable portions of the Invoice-and-Contract Abstract on the reverse hereof have been filled in and the information shown thereon is complete and correct.

(4) He has not employed any person to obtain such contract under any agreement for a commission, percentage, or contingent fee, except to the extent, if any, of the payment of a commission to a bona fide established commercial or selling agent employed or engaged by the supplier as disclosed on the reverse of this form.

(5) He has not given or received and has not arranged to give or receive by way of side payment, "kickback", or otherwise, any benefit in connection with such contract except as disclosed on the reverse of this form, or as the result of adjustment as provided in subparagraphs 11.4(d) (5) and (6) of the regulations pertaining to Title I of Public Law 480.

_____ _____
(Date) (Name of supplier)

_____
(Authorized signature)

_____
(Title)

NOTE: Any amendments, deletions or substitutions will invalidate this certificate.

Before executing the supplier's certificate, the supplier shall fill in the invoice-and-contract abstract on the reverse side in accordance with the instructions printed on the Form. The information required by the abstract is generally as follows:

(1) Invoice information, including the supplier's name and address, the importer's name and address, and detailed billing and shipping data.

(2) Information relating to agents' commissions paid or to be paid. This information with respect to agents' commissions need not be filled in on any copies of CCC Form 329 to be furnished by the supplier to the importer.

(3) Contract and price information expressed in dollars including a reconciliation of the contract and invoice prices applicable.

§ 11.10 Responsibilities of banking institutions in connection with letters of commitment issued to them.

(a) Documents required to support drafts for reimbursement are specified in § 11.9(a). Such documents are referred to in this section as "required documents." The "invoice-and-contract abstract" is not included in the term "required documents" as such term is used in this section. Any additional or substitute documents required with respect to any particular transaction will be specified as such in the purchase authorization related to that transaction and to the corresponding letter of commitment, or in the letter of commitment itself. A banking institution holding a letter of commitment is not required by CCC to obtain any documents other than those specified in § 11.9(a) and any additional or substitute documents as specified in the applicable purchase authorization or letter of commitment.

(b) A banking institution is not responsible for the truth or accuracy of the statements contained in any of the re-

quired documents. A banking institution is not obliged to look beyond these documents, nor to make independent investigation as to the accuracy of statements made therein.

(c) (1) A banking institution's examination of the required documents must be made in accordance with good commercial practice. A banking institution is responsible for ascertaining that the required documents are consistent with the related purchase authorization and letter of commitment in the following particulars, and no others:

(i) Delivery, to the extent described in paragraph (d) of this section;

(ii) Destination, to the extent described in paragraph (e) of this section;

(iii) Description, to the extent described in paragraph (f) of this section;

(iv) Discounts, purchasing agent's commissions and consular fees to the extent described in paragraph (g) of this section;

(v) Vessel approval, to the extent described in paragraph (h) of this section;

(vi) Deduction for ocean transportation to the extent described in paragraph (i) of this section;

(vii) Verification of the computation of ocean freight differential and notification to approved applicant as described in paragraph (j) of this section;

(viii) If the banking institution is to be responsible for any additional particulars, these will be specified in the purchase authorization or letter of commitment as additional required documents or as additional statements to be contained in the required documents.

(2) The right of reimbursement for payments made or drafts accepted by a banking institution in accordance with good commercial practice will not be affected by the information contained in the invoice-and-contract abstract, nor, except with respect to those particulars listed in subdivisions (i) through (viii) of subparagraph (1) of this paragraph, by the fact that the other documents received by the banking institution or information or notice received from any other source indicate noncompliance with any provisions of this subpart, or of the purchase authorization or the letter of commitment.

(3) The foregoing shall not be construed to limit any rights CCC may have against a supplier by reason of statements contained in the supplier's certificate, nor against an importing country under § 11.4(d) (2).

(d) Section 11.4(c) relates to the delivery period specified in the purchase authorization. If the shipping documents, or, in the case of cotton sold ex dock or ex warehouse, the letter from a United States bank as required by § 11.9 (a) (9) (vi) (*a*), are dated at any time within that period or any extension thereof granted by the Administrator, they are acceptable.

(e) The purchase authorization will show the importing country. If the required documents are consistent, under good commercial practice, with shipment or transshipment to such country, they are acceptable.

(f) Section (1) of the "Special Provisions", of the purchase authorization will describe the commodity. In issuing confirming, or advising letters of credit the banking institution shall see that the commodity description is not inconsistent with the description in the purchase authorization. In making payment or accepting time drafts under letters of credit the banking institution shall act in accordance with good commercial practice, based on the description contained in the required documents.

(g) A banking institution is not required to make independent inquiry as to whether the net invoice price includes either discounts (whether expressed as such or as "commissions" to the importer, or made or to be made through payments, credits or other allowances to the buyer or consignee), commissions payable to purchasing agents or consular fees, but shall not honor any such items when disclosed by the required documents.

(h) Where the Form 106 is a required document, the banking institution shall not make payment or accept time drafts under the letter of credit unless the name of the vessel shown on the Form 106, is identical with the name of the vessel shown on the bill of lading. The banking institution is not required to verify the signature appearing on the form or to make an independent inquiry as to the correctness of the information shown thereon.

(i) If the Form 106 provides that the cost of ocean transportation is not to be financed by CCC, the banking institution shall not make payment or accept time drafts under the letter of credit unless a deduction for the cost of ocean transportation is shown on the supplier's detailed invoice in the case of c.&f. or c.i.f. invoiced prices. The banking institution is not required to verify the correctness of the amount(s) of such deduction(s).

(j) Whenever the Form 106 provides for an ocean freight rate differential on a c.&f. or c.i.f. sale and authorizes financing of ocean transportation costs by CCC, the banking institution shall determine that the supplier's invoice shows a computation of the dollar amount of ocean freight differential; shall verify the computation of such amount of differential, using the rate stated on the Form 106 and the gross weight shown on the invoice or the bill of lading, whichever is less; and shall advise the approved applicant of the amount for which deposit of foreign currency is not required. The advice shall be included in the initial advice of dollar disbursement which accompanies the transmittal of documentation required under the letter of credit, and should be substantially in the following language: "The amount of $_____ paid to the beneficiary includes an ocean freight differential of $_____ according to the provisions of the attached copy of CCC Form 106, 'Advice of Vessel Approval'. You are requested to deposit only the local currency equivalent of the net amount of $_____." A copy of such advice, whenever the amount paid includes such differential, shall be sent with the other required documents to the CSS Office named in the letter of commitment.

(k) (1) Section 11.4 sets forth certain provisions to be deemed incorporated in each purchase authorization. The documents specified in § 11.9(a) include supplier's certificates showing compliance with some of these provisions. A banking institution is entitled to rely on such certificates, as well as any special certifications required by this subpart or by a particular purchase authorization or letter of commitment.

(2) Certain other provisions of § 11.4 are included primarily for the instruction of suppliers, importers and the importing countries themselves, and are not matters for which banks are to assume responsibility except to the extent specifically required elsewhere in this subpart. In this category are the provisions of § 11.4(d) (2), (4), (5), (6), (7), (8), (9), and (10).

(l) Banking institutions financing transactions under letters of commitment are not required to assume responsibility for compliance with the provisions of the following paragraphs and sections:

(1) Section 11.4(c) with respect to the period within which contracts may be entered into.

(2) Section 11.6 with respect to the eligibility of commodities for financing, except to the extent stated in paragraph (f) of this section.

(3) Section 11.12 with respect to ocean transportation except to the extent stated in paragraphs (h), (i), and (j) of this section.

(m) Section 11.13 contains provisions concerning use of the purchase authorization number, placement of orders, and delivery dates. Banking institutions financing transactions under letters of commitment are not required to assume responsibility for compliance with this section, but will not finance the transactions unless the documentation bears the appropriate purchase authorization number, or is readily identifiable with the purchase authorization, and the shipping documents evidence delivery within the delivery period specified in the purchase authorization.

(n) Upon demand therefor made by the CSS Office named in the letter of commitment, the banking institution shall promptly reimburse CCC for any losses sustained as a direct result of failure on the part of the banking institution to carry out its responsibilities as required by this Section.

(o) Banking institutions shall report to CCC, at the end of each calendar quarter, information as to adjustment refunds received during the quarter. A copy of each credit advice sent to approved applicants or agents shall accompany each quarterly report.

§ 11.11 Price provisions.

(a) The supplier's sales price must not exceed the prevailing range of export market prices (or such other maximum price level as may be specified in the purchase authorization) as applied to the terms of sale at the time of sale. "Time of Sale" shall mean the day as of which the sales price, or the method for determining the price, is established between the importer and the supplier.

(b) In the event the sales price exceeds the maximum permissible under paragraph (a) of this section, the supplier, in the case of sales financed under letters of commitment, shall refund the amount of such excess to CCC promptly after determination and notification of the amount thereof by CCC. An appropriate refund of foreign currency will be made to the importing country. If not promptly refunded such amount may be set-off by CCC against any monies owed by it to the supplier. The making of any such refund to CCC, or any such set-off by CCC shall not, however, prejudice the right of the supplier to challenge the correctness of such determination in a court action brought against CCC for recovery of the amount refunded or set-off.

(c) In the case of cotton, the following shall apply in lieu of the provisions of paragraph (b) of this section:

(1) The supplier shall, within 5 days from the date of export sale, furnish the Director, CSS Commodity Office, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana, with a copy of his sales confirmation, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the program.

(2) The CSS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 3 business days from receipt of the sales confirmation, whether such price is in conformance with paragraph (a) of this section.

(i) If the CSS Commodity Office determines the sales price is in conformance with paragraph (a) of this section, the supplier will immediately be informed by telegram of the registration number assigned to the sale by CCC.

(ii) Failure by the CSS Commodity Office to so notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sale price is not acceptable, and the sale will not be financed under the program unless the supplier satisfies CCC that the sales price is in conformance with paragraph (a) of this section.

(d) The contracted price for commodities procured through an affiliate of the importer shall not be in excess of the aggregate amount of the following:

(1) The initial cost to the affiliate for acquisition from U.S. sources;

(2) The actual or average cost of any handling, processing and transportation to point of delivery incurred by such affiliate; and

(3) Any mark-up regularly and customarily charged.

(e) When the purchase authorization limits contracting to f.o.b. or f.a.s. terms, the contracted price as stated in the export sales contract as originally executed is the maximum price eligible for financing by CCC.

§ 11.12 Ocean transportation.

(a) Unless otherwise specifically provided in the applicable purchase authorization, the pertinent terms of all charters (whether single voyage charters, consecutive voyage charters or time charters) and the terms of all liner bookings must be submitted to the Director, Transportation and Storage Services Division, CSS, U.S. Department of Agriculture, Washington 25, D.C. (except that in the case of cotton, such terms shall be submitted to the Director, CSS Commodity Office, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana) for review and approval prior to the fixture of vessels. Such submission shall be made on CCC Form 105, "Ocean Shipment Data—Title I, Public Law 480" or in the case of cotton, on CCC Form 105 (cotton). This may be done by telephone or telegram provided CCC Form 105 or CCC Form 105 (cotton) is furnished promptly, confirming the information supplied by telephone or telegram. Approvals of charters and liner bookings will be given on Form 106, signed for the Director of the Transportation and Storage Services Division, or in the case of cotton, signed for the Director, CSS Commodity Office, New Orleans, Louisiana. The Form 106 will state whether the shipment on that vessel constitutes dry cargo liner, dry bulk carrier, or tanker tonnage. In the case of United States flag vessels, a copy of each charter party shall be forwarded immediately after execution to the Director of the Transportation and Storage Services Division, or in the case of cotton, to the Director, CSS Commodity Office, New Orleans, Louisiana, by the party executing the CCC Form 105. Such United States flag vessel charter party shall show the name of each party participating in the ocean freight brokerage commission (if any), and the percentage of participation of each such party.

(b) If the purchase authorization requires that a part of the commodity be shipped on privately owned United States-flag commercial vessels, suppliers or shippers must obtain from the Director or Acting Director of the Transportation and Storage Services Division, or in the case of cotton from the Director or Acting Director of the CSS Commodity Office, New Orleans, Louisiana a determination as to the quantity of the commodity, under each sale, which must be shipped on United States-flag vessels. Where it is required that the commodity be shipped on a United States-flag vessel, CCC Form 106 will set forth the amount of the ocean freight differential, if any, which is determined by the Transportation and Storage Services Division as existing between the prevailing foreign-flag vessel rate and the United States-flag vessel rate. Ocean freight differential will be reimbursed in such case by CCC for the full tonnage for which the commodity cost is being financed by CCC, irrespective of whether or not reimbursement is requested for any part of the cost of ocean freight.

(c) CCC will not finance the cost of ocean transportation on flag vessels of the importing country either as a part of the contracted price or separate therefrom. The cost of ocean transportation will be financed by CCC on flag vessels of other than the importing country only when specifically provided for in the applicable purchase authorization. Where the financing of ocean transportation is so provided for, the following shall apply:

(1) Loading, trimming, other related shipping expenses, and dues and taxes assessed by the importing country against the cargo will not be financed by CCC as items separate from the dollar cost of ocean transportation. Discharge costs may be included in the dollar cost of ocean transportation financed by CCC only when in accordance with trade customs. The cost of "dead freight" will not be financed by CCC.

(2) In the case of transshipment from a United States-flag vessel to a foreign-flag vessel, the cost of ocean freight from the port of transshipment to the importing country will not be financed by CCC.

(3) The ocean freight will be financed only to the extent that the rate charged does not exceed any of the following rates: the prevailing United States-flag rate for similar contracts; the rate paid to the supplier for similar services during the same period of time by other customers similarly situated; or in the case of dry cargo liner shipments the conference rate for such service, if any.

(d) Where the cost of ocean transportation is financed separately from the commodity price, reimbursement will be made by CCC subject to the following:

(1) Reimbursement will be made for the cost of shipment from points of loading to points of discharge at rates established in the applicable charter party or liner booking contract but not to exceed, in the case of dry cargo liner shipments, the conference rate for such service, if any.

(2) Reimbursement will be made for 100 percent of the dollar cost of ocean transportation where the carrier's invoice includes a certification by the carrier that the charter party or liner booking contract does not provide for dispatch earnings. Upon presentation of the documents covering at least the amount for which reimbursement is claimed, reimbursement will be made for not to exceed 90 percent of such cost when the invoice does not include such certification. Reimbursement for additional amounts due, if any, will be made as provided in § 11.9(b)(6).

(e) Where ocean transportation is covered by the contracted price and the applicable purchase authorization contains a provision to the effect that ocean transportation on certain vessels will not be financed by CCC, the Form 106 will require that the supplier's detailed invoice covering the commodity shipped on such vessels show a deduction for ocean transportation.

(f) CCC will not finance brokerage commissions in excess of 2½ percent of the freight charged nor will address commissions be financed.

(g) CCC will not finance ships' dollar disbursements.

(h) CCC will not finance charges beyond the country of original destination ex warehouse or ex dock for cotton sales on ex dock or ex warehouse basis which are financed as provided in § 11.6(c)(2).

(i) The definitions of dry bulk carrier, dry cargo liner, and tanker, as used in connection with this program are as follows:

(1) Dry bulk carriers are irregularly scheduled vessels commonly referred to as "tramps". They go where full cargoes offer. Rates are negotiated by charter arrangements covering the movement of a specific commodity, a specific quantity, at a specific time from specific port or ports to specific destination port or ports. Cargoes under this category generally include grain, coal, fertilizers, lumber, pitch, salt, sugar, etc.

(2) Dry cargo liners: Liner cargo is cargo carried on vessels more or less regularly scheduled in specific trade routes. Any cargo can be shipped in this service including part-cargoes (parcels) of such bulk items as grain, coal, etc.; generally not exceeding 60 percent of the capacity of the vessel. Petroleum, vegetable oils, and similar bulk liquids carried in deep tanks of dry cargo liner vessels are classified as liner cargoes.

(3) Tankers generally carry full cargoes of bulk mineral and vegetable oil, molasses, and bulk grains. Because of compartmentation, tankers can carry a combination of the above cargoes. Rates are negotiated by charter arrangements in the same manner as dry bulk carriers.

§ 11.13 Additional responsibilities of importers and suppliers.

Importers and suppliers shall be responsible for the following unless otherwise specifically provided in the purchase authorization:

(a) Each importer to whom a subauthorization has been made by his Government must inform his supplier that the transaction is to be financed under the Act and must give to his supplier the purchase authorization number that has been given to him. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

(b) The supplier must put the purchase authorization number on all documents specified in § 11.9(a) which are prepared under his control. He should arrange for the notation of the purchase authorization number to be made on all other required documents at the time of their preparation.

(c) An importer must comply with the contract and delivery dates specified in his subauthorization by the importing country. A supplier should not accept an order identified by a purchase authorization unless he expects to comply with the contract and delivery dates specified.

(d) It is the responsibility of the supplier to assure that he does not make shipments or deliveries of commodities prior to the issuance, confirmation, or advice by a banking institution in the United States of an irrevocable commercial letter of credit in his favor.

(e) The rate of exchange and the deposit to the account of the United States of the foreign currency purchase price of the commodity will be arranged between the Governments of the United States and the importing country. The supplier will not be responsible for assuring that the foreign currency is so deposited.

(f) An importer of cotton shall, if requested by CCC, obtain foreign quality arbitration under the specified market rules. If the contract provides for USDA Form A certificates, CCC will not request such arbitration. The arbitration award may be appealed by the supplier or the importer and shall be appealed by the importer upon request of CCC, under the applicable rules specified in the contract. If the costs paid by the importer for an arbitration or appeal requested by CCC are in excess of the award, CCC will authorize the refund of foreign currency in an amount equal to such excess upon submission to the Director, CSS Commodity Office, New Orleans, Louisiana, of documentation showing the amount of costs paid by the importer and the amount of the award. These provisions shall not alter the rights of the importer and supplier to effect adjustments by arbitration or otherwise in accordance with the provisions of the contract or customs of the trade for other than quality deficiencies, or for quality deficiencies if CCC does not request arbitration.

(g) Whenever a copy of a weight certificate is required by the purchase authorization or these regulations, the supplier is responsible for submitting a weight certificate issued by an employee of, or person licensed by, a federal or state agency or local public authority, or issued by or on authority of a trade association or organization or private independent firm. Where a weight certificate cannot be obtained from any of the above sources, a weight certificate issued by an individual who is bonded for the faithful performance of weighing duties, is acceptable.

(h) Whenever a copy of a certificate relating to the drawing of samples is required by the purchase authorization or these regulations, the supplier is responsible for submitting a certificate issued by an employee of, or a person licensed by, a federal or state agency or local public authority, or issued by or on authority of a trade association or organization or private independent firm.

(i) In the case of procurement by an importer through an affiliate, the copy of the invoice to be submitted to CCC must also have the amounts itemized which are specified in § 11.11(d), or the supplier must furnish this information to CCC in a separate signed statement.

§ 11.14 CSS Commodity Offices.

The addresses of the CSS Commodity Offices are as follows:

CSS Commodity Office, U.S. Department of Agriculture, 2201 Howard Street, Evanston, Ill.

CSS Commodity Office, U.S. Department of Agriculture, 222 East Central Parkway, Cincinnati 2, Ohio.

CSS Commodity Office, U.S. Department of Agriculture, 500 South Ervay Street, Dallas, Tex.

CSS Commodity Office, U.S. Department of Agriculture, 560 Westport Road, Kansas City 41, Mo.

CSS Commodity Office, U.S. Department of Agriculture, 6400 France Avenue So., Minneapolis 10, Minn.

CSS Commodity Office, U.S. Department of Agriculture, 120 Marais Street, New Orleans 16, La.

CSS Commodity Office, U.S. Department of Agriculture, 1218 SW. Washington Street, Portland 5, Oreg.

§ 11.15 Effective date.

This revision of this subpart shall become effective upon publication in the FEDERAL REGISTER as to purchase authorizations originally issued on and after the date of such publication. Purchase authorizations originally issued prior to such date of publication shall continue to be subject to the provisions of this subpart applicable thereto prior to this revision unless made subject to this revision by amendment or modification of such purchase authorizations.

Done at Washington, D.C., this 26th day of October 1959. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F.R. Doc. 59-9178; Filed, Oct. 29, 1959; 8:46 a.m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quota and Acreage Allotments), Department of Agriculture

[Amdt. 2]

PART 725—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Marketing Quota Regulations, 1959–60 Marketing Year

The amendment contained herein is based on the marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1282 et seq.), and amends the burley, flue-cured, fire-cured, dark air-cured and Virginia sun-cured tobacco marketing quota regulations, 1959–60 marketing year (24 F.R. 4682, 4947) as provided below.

Since this amendment is issued only to (1) clarify the provisions of §§ 725.1031(b), 725.1053(a)(3) and 725.1053(h)(9) and, (2) revise § 725.1052 to conform to the interpretation given to section 313 of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1313), in § 725.1119 of the Tobacco Marketing Quota Regulations, 1960–61 Marketing Year (24 F.R. 6895, 7243), it is hereby found and determined that compliance with the notice, public procedure and effective date requirements of section 4 of the Administrative Procedure Act (5 U.S.C. 1003) is impracticable, unnecessary and contrary to the public interest and this amendment shall become effective upon filing with the Division of Federal Register.

1. Section 725.1031(b) is amended to read as follows:

(b) "Buyers Corrections Account" means the account required to be kept by the warehouseman of any tobacco purchased at auction by the buyer but not delivered to the buyer, or any tobacco returned by the buyer because of rejection by the buyer, lost ticket, or any other valid reason, and which is turned back to the warehouseman and supported by an adjustment invoice from the

buyer. Buyers Corrections Account shall include from each adjustment invoice the pounds and amounts added and pounds and amounts deducted resulting from errors and corrections, long and short baskets, and long and short weights which buyers credit or debit to the warehouseman and support with adjustment invoices.

2. Section 725.1032 (a), (d) and (e) are amended as follows:

(a) *Report of tobacco acreage.* The farm operator or any producer on the farm shall execute and file a report with the ASC county office or a representative of the county committee on Form CSS–578, Report of Acreage, showing all fields of tobacco on the farm in 1959. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm, even though the farm operator or his representative refuses to sign such report, the allotment next established for such farm and kind of tobacco shall be reduced pursuant to applicable tobacco marketing quota regulations for determining acreage allotments and normal yields, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) the filing of, aiding, or acquiescing in the filing of, such false report was not intentional on the part of any producer on the farm and that no producer on the farm could reasonably have been expected to know that the report was false, provided the filing of the report will be construed as intentional unless the report is corrected and the payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the filing of the false acreage report.

(d) *False identification.* If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments next established for both such farms and kind of tobacco shall be reduced pursuant to applicable tobacco marketing quota regulations for determining acreage allotments and normal yields, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketing or could have reasonably been expected to have prevented such marketing, provided the marketing shall be construed as intentional unless all tobacco from the farm is accounted for and payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in such marketing.

(e) *Report of production and disposition.* In addition to any other reports which may be required under §§ 725.1030 to 725.1062, the operator on each farm or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall upon written request by registered or certified mail from the State administrative officer within fifteen (15) days after deposit of such request in the United States mails addressed to such person at his last known address, furnish the Secretary on Form MQ–108–Tobacco a written report of the acreage, production, and disposition of all tobacco produced on the farm by sending the same to the ASC State office showing, as to the farm at the time of filing such report, (1) the number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm, (2) the total pounds of tobacco produced, (3) the amount of tobacco on hand and its location, and (4) as to each lot of tobacco marketed, the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed and the number of pounds marketed, the gross price and the date of the marketing. Failure to file the MQ–108 as requested, the filing of a false MQ–108, or the filing of a MQ–108 which is found by the State committee to be incomplete or incorrect shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm and kind of tobacco shall be reduced pursuant to applicable tobacco marketing quota regulations for determining acreage allotments and normal yields, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (i) the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition, provided such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided or acquiesced in the failure to furnish such proof.

3. Section 725.1053(a)(3) is amended to read as follows:

(3) Each warehouseman shall keep such records as will enable him to furnish the ASC State office the total pounds and amounts of the debits and the credits to the Buyers Corrections Account as defined in § 725.1031(b). Where the warehouseman returns to the seller tobacco debited to the Buyers Corrections Account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the Buyers Corrections Account and a corresponding purchase (debit entry), in a case of a dealer, on the Dealer's MQ–79 (Dealer's Record). If a warehouse maintains a daily summary of billouts, the balancing figure reflected thereon, if any, shall not be included in the Buyers Corrections Account.

4. Section 725.1053(h)(9) is amended to read as follows:

(9) The sum of the debits and the sum of the credits, pounds and amounts, from the Buyers Corrections Account (§ 725.1053(a)).

(Sec. 375, 52 Stat. 66; 7 U.S.C. 1375; interprets or applies sec. 313, 52 Stat. 48, as amended, 7 U.S.C. 1313; sec. 373, 52 Stat. 65 as amended; 7 U.S.C. 1373)

Issued at Washington, D.C., this 26th day of October 1959.

CLARENCE D. PALMBY,
Acting Administrator, CSS.

[F.R. Doc. 59-9211; Filed, Oct. 29, 1959; 8:49 a.m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

[Sugar Determination 873.12]

PART 873—SUGARCANE, FLORIDA

1959 Crop Prices

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and due consideration of the evidence presented at the public hearing held in Clewiston, Florida, on May 14, 1959, the following determination is hereby issued:

§ 873.12 Fair and reasonable prices for the 1959 crop of Florida sugarcane.

A producer of sugarcane in Florida who is also a processor of sugarcane (herein referred to as "processor"), shall have paid, or contracted to pay, for sugarcane of the 1959 crop grown by other producers and processed by him, or shall have processed sugarcane of other producers under a toll agreement, in accordance with the following requirements.

(a) *Definitions.* For the purpose of this section, the term:

(1) "Price of raw sugar" means the daily spot quotation of raw sugar of the New York Coffee and Sugar Exchange (domestic contract) adjusted to a duty-paid basis by adding the U.S. duty prevailing on Cuban raw sugar, except that if the Director of the Sugar Division determines that such price does not reflect the true market value of raw sugar, because of inadequate volume or other factors, he may designate the price to be effective under this section which he determines will reflect the true market value of raw sugar.

(2) "Raw sugar" means raw sugar, 96° basis.

(3) "Net sugarcane" means the gross weight of the sugarcane as delivered by a producer to a processor minus a deduction for trash of 4 percent.

(4) "Standard sugarcane" means sugarcane containing 12.5 percent sucrose in the normal juice.

(5) "Average percent sucrose in normal juice" means the percentage determined by multiplying the season's average percent sucrose in crusher juice of the producer's sugarcane by (i) the ratio of the average normal juice sucrose for all Florida mills to the average crusher

juice sucrose for all such mills during the most recent 5 years; or (ii) the 1959 crop ratio of the average normal juice sucrose to the average crusher juice sucrose at the processor's mill. In applying method in subdivision (ii) of this subparagraph, average crusher juice sucrose shall be obtained by direct analysis; average normal juice sucrose shall be computed by multiplying the average dilute juice purity by the average normal juice Brix; and normal juice Brix shall be determined by multiplying the average crusher juice Brix by a dry milling factor, obtained by running dry milling tests supervised by the Florida State ASC Office. The processor shall elect the method to be used in determining the average normal juice sucrose and shall uniformly use the method selected throughout the crop.

(6) "Salvage sugarcane" means sugarcane containing less than 9.5 percent sucrose in the normal juice.

(7) "State Office" means the Florida State Agricultural Stabilization and Conservation Office, Gainesville, Florida.

(8) "State Committee" means the Florida State Agricultural Stabilization and Conservation Committee.

(b) *Basic price for purchased sugarcane.* (1) The basic price for sugarcane purchased by a processor from producers shall be not less than $1.07 per ton of standard sugarcane for each one cent per pound of the average price of raw sugar obtained by weighting the simple average of daily prices of raw sugar for each month in which sugar is sold by or for the account of the processor by the quantity of 1959 crop raw sugar or raw sugar equivalent of the sugar sold during each month.

(2) Net sugarcane (except salvage sugarcane) shall be converted to standard sugarcane by multiplying the total quantity of net sugarcane delivered by each producer by the applicable quality factor in accordance with the following table:

Average percent sucrose normal juice:	*Standard sugarcane quality factor* [1]
9.5	0.70
10.0	0.75
10.5	0.80
11.0	0.85
11.5	0.90
12.0	0.95
12.5	1.00
13.0	1.05
13.5	1.10
14.0	1.15
14.5	1.20
15.0	1.25
15.5	1.30

[1] The quality factor for sugarcane of intermediate percentages of sucrose in normal juice shall be interpolated and for sugarcane having more than 15.5 percent sucrose in the normal juice shall be computed in proportion to the immediately preceding interval.

(3) *Molasses payment.* The processor shall pay for each ton of net sugarcane ground an amount equal to the product of 5.6 gallons times one-half of the average net price realized from the disposal of blackstrap or final molasses, f.o.b. mill tanks, in excess of 4.75 cents per gallon, during the 12-month period ending May 31, 1960.

(4) *General.* (i) The price for sugarcane specified in this paragraph is applicable to sugarcane loaded on carts or trucks at the farm, or, if sugarcane is transported by railroad, loaded in railroad cars at the railroad siding nearest the farm: *Provided,* That if a producer delivers sugarcane directly to the mill the processor shall pay the producer for transporting such sugarcane an amount equal to the cost of transporting sugarcane (based on gross weight) by railroad or by other common carrier, whichever customarily is used by the processor.

(ii) Deductions for frozen sugarcane, fiber content determinations and deductions, definitions of delivery schedules and similar specifications employed in connection with the purchase of 1959 crop sugarcane shall be as agreed upon between the producer and the processor.

(iii) Nothing in subdivision (ii) of this subparagraph shall be construed as prohibiting modification of customs and practices which may be necessary because of unusual circumstances, any such modification to be reported in writing by the processor to the State Office.

(iv) In the event a general freeze causes abnormally low recoveries of raw sugar by a processor in relation to the sucrose test of the sugarcane, payment for such sugarcane may be made as agreed upon between the producer and the processor subject to the written approval of the State Office upon a determination by the State Committee that the payment is fair and reasonable.

(v) The processor shall submit to the State Office for approval: (*a*) A statement setting forth the weighted average price of raw sugar upon which settlements with producers are based; (*b*) a statement setting forth the gross proceeds and the handling and delivery expenses deducted in arriving at the net price of blackstrap molasses; and (*c*) a statement prior to the start of grinding or within 10 days after the date of publication of this determination in the FEDERAL REGISTER whichever is later, specifying the method to be used in determining the average percent sucrose in normal juice.

(c) *Salvage sugarcane.* The price for salvage sugarcane shall be as agreed upon between the processor and the producer, subject to the approval of the State Office.

(d) *Toll agreements.* The rate for processing sugarcane produced by a processor and processed under a toll agreement by another processor shall be the rate they agree upon.

(e) *Sugarcane for livestock feed.* The requirements of this section are applicable to all sugarcane grown by a producer and processed by the processor for the extraction of sugar or liquid sugar: *Provided,* That such requirements shall not apply with respect to sugarcane grown on acreage in excess of the proportionate share for the farm if such sugarcane is marketed (or processed) for the production of sugar or liquid sugar for livestock feed or for the production of livestock feed.

(f) *Subterfuge.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this section through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination establishes the fair and reasonable rate requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1959 crop grown by other producers.

(b) *Requirements of the act.* Section 301(c)(2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

(c) *1959 price determination.* This determination continues the provisions of the 1958 crop determination except that molasses payments are to be based on 5.6 gallons of molasses per ton of sugarcane, the most recent five-year average recovery of molasses; and, if sugarcane produced by either of the two processor-producers in the area is processed under a toll agreement the rate for processing shall be as agreed upon between the parties.

A public hearing was held at Clewiston, Florida, on May 4, 1959 at which interested parties were afforded an opportunity to testify with respect to fair and reasonable prices for the 1959 crop of sugarcane. At the hearing representatives of producers and processors recommended that the provisions of the 1959 determination be the same as those for the 1958 determination.

Consideration has been given to the recommendations presented at the hearing, to information obtained through investigation and to other relevant data. The comparative returns, costs, and profits of producing and processing Florida sugarcane, obtained through field survey for a prior year, have been recast in terms of prospective price and production conditions for the 1959 crop. Analysis of these data indicates that the provisions of this determination will provide an equitable sharing of returns from sugar and molasses based on the relative average sharing of costs between producers and processors.

The molasses payment to producers is based on a yield of 5.6 gallons per ton of sugarcane to reflect the most recent five-year average recovery of molasses by the processors who purchase sugarcane from independent producers.

Representatives of the two processor-producers in Florida have notified the Department that in view of the anticipated large volume of 1959 crop sugarcane and the ever-present possibility of a freeze in the area, some of the sugarcane grown by one processor may be processed at the mill of the other proc-

essor under a tolling arrangement. Accordingly, this determination provides that in such a situation the rate for processing under a toll agreement shall be as agreed upon between the processor-producers. This provision will permit full utilization of the milling capacity in the area in the event of a large crop or adverse weather conditions during the harvest.

On the basis of examination of all the pertinent factors, the provisions of this determination are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing price determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U.S.C. Sup. 1153. Interprets or applies sec. 301, 61 Stat. 929 as amended; 7 U.S.C. Sup. 1131)

Issued this 27th day of October 1959.

TRUE D. MORSE,
Acting Secretary of Agriculture.

[F.R. Doc. 59-9210; Filed, Oct. 29, 1959; 8:49 a.m.]

[Sugar Determination 874.12]

PART 874—SUGARCANE; LOUISIANA

1959 Crop

Correction

In F.R. Document 59-8867, appearing in the issue for Wednesday, October 21, 1959, at page 8488, make the following change:

In the Standard Sugarcane Purity Factor table, the column headed "At least 14.50 but not more than 14.99", line 16 which now reads "854" should read "954".

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 1015—CUCUMBERS GROWN IN FLORIDA

Approval of Expenses and Rate of Assessment

Notice of rule making regarding proposed expenses and rate of assessment to be made effective under Marketing Agreement No. 118 and Order No. 115 (7 CFR Part 1015) regulating the handling of cucumbers grown in Florida was published in the FEDERAL REGISTER October 7, 1959 (24 F.R. 8118). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937 as amended (Secs 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674). The notice afforded interested persons opportunity to file data, views, or arguments pertaining thereto not later than 15 days after publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which proposals were adopted and submitted for approval by the Florida Cucumber Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 1015.203 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Florida Cucumber Committee established pursuant to Marketing Agreement No. 118 and this part, to enable such committee to perform its functions pursuant to the provisions of the aforesaid marketing agreement and order during the fiscal period ending July 31, 1960, will amount to $70,330.00.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 118 and this part, shall be two cents ($0.02) per 54-pound bushel of cucumbers, or respective equivalent quantities thereof, handled by him as the first handler thereof during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 118 and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 26, 1959 to become effective 30 days after publication in the FEDERAL REGISTER.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 59-9177; Filed, Oct. 29, 1959; 8:46 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER D—REGULATIONS UNDER SOIL BANK ACT

[Amdt. 37]

PART 485—SOIL BANK

Subpart—Conservation Reserve Program for 1956 Through 1959

MODIFICATION AND TERMINATION OF CONTRACTS

Section 485.156(d)(1) of the regulations governing the conservation reserve program, 21 F.R. 6289, as amended, is further amended by revising subdivision (v) thereof to read as follows: "(v) in the case of contracts under which 1956 or 1957 is the first year of the contract period, to permit a producer to withdraw acreage from the conservation reserve at the regular rate up to the number of acres placed in the 1958 acreage reserve program except that the acreage so withdrawn shall in no event exceed the number of acres which together with the number of acres already permitted to be devoted to soil bank base crops will permit the producer to grow his farm acreage allotments;".

(Sec. 124, 70 Stat. 198; 7 U.S.C. 1812)

Issued at Washington, D.C., this 26th day of October 1959.

CLARENCE D. PALMBY,
Acting Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59-9209; Filed, Oct. 29, 1959; 8:49 a.m.]

Chapter V—Agricultural Marketing Service, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS AND POLICIES

[Amdt. 2]

PART 503—DONATION OF FOOD COMMODITIES FOR USE IN UNITED STATES FOR SCHOOL LUNCH PROGRAMS, SUMMER CAMPS FOR CHILDREN, AND RELIEF PURPOSES, AND IN STATE CORRECTIONAL INSTITUTIONS FOR MINORS

Miscellaneous Amendments

This amendment is to incorporate in these regulations the provisions of recently enacted legislation.

1. Section 503.1(b)(1) is amended to insert "whether in private stocks or" in the first sentence thereof. As amended § 503.1(b)(1) reads as follows:

(1) Section 416 of the Agricultural Act of 1949, as amended (hereinafter referred to as "section 416"), which reads in part as follows: "In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest * * * (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served * * *. In the case of (3) * * * the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may, from time to time, estimate and announce the quantity of such commodities which he anticipates will become available under (3) * * *. The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transportation, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency, in the case of commodities made available for use within the United States * * *. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such com-

modities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms 'State' and 'United States' include the District of Columbia and any Territory or possession of the United States."

2. Section 503.1(b) is amended to add the following subparagraphs:

(9) Section 402 of the Mutual Security Act of 1954, as amended, which reads in part as follows: "Surplus food commodities or products thereof made available for transfer under this Act (or any other Act) as a grant or as a sale for foreign currencies may also be made available to the maximum extent practicable to eligible domestic recipients pursuant to section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), or to needy persons within the United States pursuant to clause (2) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c)."

(10) Section 307 of the Agricultural Trade Development and Assistance Act of 1954, as amended, which reads in part as follows: "Whenever the Secretary of Agriculture determines under section 106 of this Act that any food commodity is a surplus agricultural commodity, insofar as practicable he shall make such commodity available for distribution to needy families and persons in the United States in such quantities as he determines are reasonably necessary before such commodity is made available for sale for foreign currencies under Title I of this Act."

3. Section 503.4(b) is amended to read as follows:

(b) *Quantities.* The quantity of commodities to be made available for donation under this part shall be determined in accordance with the pertinent legislation and the program obligations of the Department, and shall be such as can be effectively distributed in furtherance of the objectives of the pertinent legislation. The Department may, at its discretion, restrict distribution of commodities to one or more classes of recipient agencies or recipients. When this is done, priority shall be given to recipient agencies or recipients in the following order: (1) Schools, (2) needy Indians receiving commodities on reservations, institutions, State correctional institutions for minors, and nonprofit summer camps for children, and (3) other needy persons. Notwithstanding the foregoing priorities, if any commodity determined by the Secretary to be a surplus agricultural commodity under section 106 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is made available for donation under this part, distribution thereof shall be made to needy families and persons, including needy Indians receiving commodities on reservations, and to institutions; and any quantity of such commodity in excess of that reasonably necessary to meet the needs of such recipients and recipient agencies may be distributed to schools, State correctional institutions for minors, and nonprofit summer camps for children, in that order. Donations to disaster organizations may be made without regard to any of the priorities established herein.

(R.S. 161, sec. 416, 63 Stat. 1058, as amended; 5 U.S.C. 22, 7 U.S.C. 1431)

Effective date. This amendment shall be effective as of date of publication.

CLARENCE L. MILLER,
Assistant Secretary.

OCTOBER 27, 1959.

[F.R. Doc. 59-9208; Filed, Oct. 29, 1959; 8:49 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. R]

PART 218—RELATIONS WITH DEALERS IN SECURITIES UNDER SECTION 32, BANKING ACT OF 1933

Exceptions

1. Effective October 23, 1959, § 218.2 is amended by striking out the words "debentures issued by Federal Intermediate Credit banks, bonds issued by Federal Land banks," and substituting therefor "obligations of Federal Intermediate Credit banks, Federal Land banks, Central Bank for Cooperatives, Federal Home Loan banks, and the Federal National Mortgage Association,". As amended, § 218.2 reads as follows:

§ 218.2 Exceptions.

Pursuant to the authority vested in it by section 32, the Board of Governors of the Federal Reserve System hereby permits the following relationships: [2]

Any officer, director, or employee of any corporation or unincorporated association, any partner or employee of any partnership, or any individual, not engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of any stocks, bonds, or other similar securties except bonds, notes, certificates of indebtedness, and Treasury bills of the United States, obligations fully guaranteed both as to principal and interest by the United States, obligations of Federal Intermediate Credit banks, Federal Land banks, Central Bank for Cooperatives, Federal Home Loan banks, and the Federal National Mortgage Association, and general obligations of territories, dependencies and insular possessions of the United States, may be at the same time an officer, director, or employee of any member bank of the Federal Reserve System, except when otherwise prohibited.[3]

2a. The purpose of this amendment is to add the obligations of three agencies to those now named in this section, which exempts relationships with firms dealing only in certain types of obligations.

b. The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with the amendment for the reasons and good cause found as stated in paragraph (e) of § 262.2 of the Board's rules of procedure (Part 262 of this chapter) and specifically because in connection with this amendment such procedures are unnecessary as they would not aid the persons affected and would serve no other useful purpose.

(Sec. 11(i), 38 Stat. 262; 12 U.S.C. 248(i). Interprets or applies sec. 32, 48 Stat. 194, as amended; 12 U.S.C. 78)

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 59-9200; Filed, Oct. 29, 1959; 8:48 a.m.]

[2] Under section 32, as amended effective January 1, 1936 (49 Stat. 709; 12 U.S.C. 78), the Board is authorized to except limited classes of relationships from the prohibitions of the statute, under certain conditions; but the Board can make such exceptions only by general regulations and is not authorized to issue individual permits.

[3] Section 8 of the Clayton Act (38 Stat. 732, 49 Stat. 718; 15 U.S.C. 19) is applicable in certain circumstances to interlocking relationships between member banks and private bankers, and other banks, banking associations, savings banks and trust companies. See part 212 of this chapter.

Section 17(c) of the Public Utility Act of 1935 (49 Stat. 831; 15 U.S.C. 79q(c)) is applicable in certain circumstances to interlocking relationships between banks and private bankers (and corporations owned by banks and private bankers), and public utility companies and public utility holding companies. Inquiries regarding this section should be addressed to the Securities and Exchange Commission and not to the Board of Governors of the Federal Reserve System.

Section 305(b) of the Federal Power Act (49 Stat. 856; 16 U.S.C. 825d(b)) is applicable in certain circumstances to interlocking relationships between public utility companies and banks and bankers that are authorized by law to underwrite or participate in the marketing of securities of a public utility. Inquiries regarding this section should be addressed to the Federal Power Commission and not to the Board of Governors of the Federal Reserve System.

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-LA-32]

[Amdt. 38]

PART 608—RESTRICTED AREAS

Modification

The purpose of this amendment is to change the controlling agency of the El Centro, California, restricted area (R-302) from "Fleet Air Detachment, El Centro, Calif." to "Commanding Officer, Marine Corps Auxiliary Air Station (MCAAS) Yuma, Ariz."

The U.S. Navy has requested this change in controlling agency in order to designate the command presently responsible for utilization of airspace within this area.

The El Centro restricted area (R-302) has been utilized by certain Fleet Squadrons from Naval Air Stations in the San Diego area and from the Marine Corps

Air Station, El Toro, which were deployed to NAAS El Centro for that purpose. However, NAAS El Centro was recently reduced to the status of an Auxiliary Landing Field. The Navy and Marine Squadrons formerly based at NAAS El Centro have been transferred to MCAAS Yuma, Ariz. These squadrons will continue to utilize the El Centro restricted area (R-302), operating from their new base under the control of the Commanding Officer, MCAAS Yuma, Ariz.

Since this amendment imposes no additional burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, the following action is taken: In § 608.14, the El Centro, California, Restricted Area (R-302) (San Diego Chart) (23 F.R. 8577) is amended by deleting "Fleet Air Detachment, El Centro, Calif." and substituting therefor "Commanding Officer, Marine Corps Auxiliary Air Station (MCAAS) Yuma, Arizona."

This amendment shall become effective 0001 e.s.t. December 17, 1959.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on October 26, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-9179; Filed, Oct. 29, 1959; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

Miscellaneous Amendments

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500), the regulations for the certification of antibiotic and antibiotic-containing drugs (146a.19 (24 F.R. 7615); 21 CFR, 1958 Supp., 146c.221) are amended as indicated below:

1. Section 146a.19 *Benzathine penicillin V for aqueous injection veterinary* is amended by adding the following concluding sentence to paragraph (e):

(e) * * *

The fees prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fees are covered by an advance deposit maintained in accordance with § 146.8(d) of this chapter.

2. In § 146c.221 *Tetracycline hydrochloride for intramuscular use* * * *, paragraph (a) is amended by inserting in the first sentence after the words "magnesium chloride", the words "or magnesium ascorbate". As amended, paragraph (a) will read as follows:

(a) *Standards of identity, strength, quality, and purity.* Tetracycline hydrochloride or tetracycline phosphate complex for intramuscular use is a dry mixture of tetracycline hydrochloride or tetracycline phosphate complex, magnesium chloride or magnesium ascorbate and one or more suitable buffer substances with or without one or more suitable preservatives and anesthetic agents, and with or without one or more suitable and harmless vitamin substances. It is sterile. It is nonpyrogenic. Its moisture content is not more than 5 percent. Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 and not more than 3.0. The tetracycline hydrochloride used conforms to the requirements of § 146c.218 (a). The tetracycline phosphate complex used conforms to the requirements of § 146c.232(a) and it contains no histamine nor histamine-like substance. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendment set forth in this order.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357)

Dated: October 23, 1959.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 59-9170; Filed, Oct. 29, 1959; 8:45 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAX

[T.D. 6423]

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Subpart I—Refrigeration Equipment, Electric, Gas, and Oil Appliances, and Electric Light Bulbs

On August 25, 1959, notice of proposed rule making with respect to regulations under sections 4111, 4121, and 4131 of the Internal Revenue Code of 1954, as amended, relating to taxes imposed on the sale of refrigeration equipment, electric, gas, and oil appliances, and electric light bulbs, respectively, effective January 1, 1959, except as otherwise provided, was published in the FEDERAL REGISTER (24 F.R. 6873). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (a)(3) of § 48.4111-2 is revised by striking "or" after "ice cubes" and by inserting in lieu thereof "and".

PAR. 2. Paragraph (c)(1) of § 48.4111-2 is revised.

PAR. 3. Section 48.4111-3 is revised.

PAR. 4. Paragraph (d) of § 48.4121-2 is revised.

PAR. 5. Section 48.4121-3 is revised.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: October 26, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

The regulations as adopted under sections 4111, 4121, and 4131 of the Internal Revenue Code of 1954, as amended, relating to taxes imposed on the sale of refrigeration equipment, electric, gas, and oil appliances, and electric light bulbs, respectively, effective January 1, 1959 are as follows:

Subpart I—Refrigeration Equipment, Electric, Gas, and Oil Appliances, and Electric Light Bulbs

REFRIGERATION EQUIPMENT

ELECTRIC, GAS, AND OIL APPLIANCES

ELECTRIC LIGHT BULBS

AUTHORITY: §§ 48.4111 to 48.4111-5, incl., §§ 48.4121 to 48.4121-5, incl., and §§ 48.4131 to 48.4131-3, incl., issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

Subpart I—Refrigeration Equipment, Electric, Gas, and Oil Appliances, and Electric Light Bulbs

REFRIGERATION EQUIPMENT

§ 48.4111 Statutory provisions; imposition of tax.

SEC. 4111. *Imposition of tax.* There is hereby imposed upon the sale of the following articles (including in each case parts or accessories therefor sold on or in connection with the sale thereof) by the manufacturer, producer, or importer a tax equivalent

to the specified percent of the price for which so sold:

ARTICLES TAXABLE AT 5 PERCENT—

Household type refrigerators (for single or multiple cabinet installations) having, or being primarily designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline.

Household type units for the quick freezing or frozen storage of foods operated by electricity, gas, kerosene, or gasoline.

Combinations of household type refrigerators and quick-freeze units described above.

ARTICLES TAXABLE AT 10 PERCENT—

Self-contained air-conditioning units.

[Section 4111 as amended and in effect Jan. 1, 1959]

§ 48.4111–1 Imposition of tax.

(a) *In general.* Section 4111 imposes a tax on the sale by the manufacturer, producer, or importer of the following articles (including in each case parts or accessories therefor sold on or in connection with the sale thereof):

(1) Household type refrigerators (for single or multiple cabinet installations) having, or being primarily designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline;

(2) Household type units for the quick freezing or frozen storage of foods operated by electricity, gas, kerosene, or gasoline;

(3) Combinations of household type refrigerators and quick-freeze units described in subparagraphs (1) and (2) of this paragraph; and

(4) Self-contained air-conditioning units.

(b) *Rates and computation of tax.* (1) Tax is imposed on the sale of the articles specified in section 4111 and paragraph (a) of this section at the rates specified below:

	Percent
Household type refrigerators, household type quick-freeze units, and combinations of such refrigerators and quick-freeze units	5
Self-contained air-conditioning units	10

(2) Tax is computed by applying the applicable rate to the price for which the article is sold. For the definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4111 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4111–2 Definitions.

For purposes of the tax imposed by section 4111, unless otherwise expressly indicated:

(a) *Household type refrigerators.* The term "household type refrigerators" includes refrigerators for single or multiple cabinet installations which—

(1) Have an actual, practical, commercial fitness, or are specifically designed and constructed, for household use,

(2) Have, or are primarily designed for use with, a mechanical refrigerating unit operated by electricity, gas, kerosene, or gasoline, and

(3) Are arranged to provide refrigerated storage space for the preservation of food or low temperature space for making ice cubes and frozen desserts.

(b) *Household type units for the quick freezing or frozen storage of foods.* The term "household type units for the quick freezing or frozen storage of foods" includes units solely for the quick freezing of foods or solely for the storage of frozen foods or combinations thereof which—

(1) Have an actual, practical, commercial fitness, or are specifically designed and constructed, for household use, and

(2) Are operated by electricity, gas, kerosene, or gasoline.

(c) *Self-contained air-conditioning units.* The term "self-contained air-conditioning units" includes a factory-made encased assembly or one sold for assembly on installation which—

(1) Is designed (i) for the direct delivery of conditioned air, the unit being suitable for effecting such delivery without the use of ducts, and (ii) for the removal of heat,

(2) Incorporates means for cooling, dehumidifying, and circulating the air of a room or other enclosure, and

(3) Is designed for use as a portable unit, console unit, or for installation in or in front of a window or other opening.

An assembly which meets the conditions in subparagraphs (1), (2), and (3) of this paragraph, and which also includes means for ventilating, heating, or performing other functions, constitutes a "self-contained air-conditioning unit" in its entirety or in part, depending on the facts in each case. However, the term "self-contained air-conditioning units" does not include any unit which requires the use of a water-cooled system for the discharge of removed heat. Likewise, the term does not include units which are primarily designed for use in connection with motor vehicles and which are taxable as automobile parts or accessories under section 4061(b) and the regulations thereunder contained in Subpart H of this part.

(d) *Cross references.* For other relevant definitions, see §§ 48.0–2 and 48.7701.

§ 48.4111–3 Parts or accessories.

(a) *In general.* The tax attaches in respect of parts or accessories for articles specified in section 4111 and paragraph (a) of § 48.4111–1 sold on or in connection with the sale thereof at the rate applicable to the sale of the basic articles. The tax attaches in such case whether or not the parts or accessories are billed separately. On the other hand, no tax attaches in respect of parts or accessories for articles specified in section 4111 and paragraph (a) of § 48.4111–1 which are sold otherwise than on or in connection with such articles or with the sale thereof.

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof without parts or accessories which are considered equipment essential for the operation or appearance of such articles, the sale of such parts or accessories will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though they are shipped separately at the same time or on a different date.

§ 48.4111–4 Tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4111, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

§ 48.4111–5 Effective date.

The provisions of §§ 48.4111–1 through 48.4111–4 are effective as provided in Subpart A of this part except that under the authority of section 7805(b) the provisions of such sections shall not be applicable in respect of sales made by a manufacturer, producer, or importer before the first day of the first calendar month which begins more than 30 days after the date of publication of the regulations in this subpart in the FEDERAL REGISTER of the following articles:

(a) "Household type refrigerators", as defined in paragraph (a) of § 48.4111–2, which have a net storage space exceeding 14 cubic feet.

(b) Combinations of "household type refrigerators" and "household type units for the quick freezing or frozen storage of foods", as defined in paragraphs (a) and (b) of § 48.4111–2, which have a net storage space exceeding 14 cubic feet in the normal temperature refrigerator portion.

(c) "Self-contained air-conditioning units", as defined in paragraph (c) of § 48.4111–2, which have a total motor horsepower of 1 or more horsepower, or, in the case of absorption types, a total cooling capacity of 10,000 or more B.T.U. per hour.

ELECTRIC, GAS, AND OIL APPLIANCES

§ 48.4121 Statutory provisions; imposition of tax.

SEC. 4121. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles of the household type (including in each case parts or accessories therefor sold on or in connection with the sale thereof), a tax equivalent to 5 percent of the price for which so sold:

Electric, gas, or oil water heaters.
Electric flatirons.
Electric air heaters (not including furnaces).
Electric immersion heaters.
Electric blankets, sheets, and spreads.
Electric, gas, or oil appliances of the type used for cooking, warming, or keeping warm food or beverages for consumption on the premises.
Electric mixers, whippers, and juicers.
Electric direct-motor and belt-driven fans and air circulators.
Electric exhaust blowers.
Electric or gas clothes driers.
Electric door chimes.
Electric dehumidifiers.
Electric dishwashers.
Electric food choppers and grinders.
Electric hedge trimmers.
Electric ice cream freezers.
Electric mangles.
Electric pants pressers.

Electric, gas, or oil incinerator units and garbage disposal units.
Power lawn mowers.

[Section 4121 as amended and in effect Jan. 1, 1959]

§ 48.4121–1 Imposition of tax.

(a) *In general.* Section 4121 imposes a tax on the sale by the manufacturer, producer, or importer of the following articles of the household type (including in each case parts or accessories therefor sold on or in connection with the sale thereof):

(1) Electric, gas, or oil water heaters.
(2) Electric flatirons.
(3) Electric air heaters (not including furnaces).
(4) Electric immersion heaters.
(5) Electric blankets, sheets, and spreads.
(6) Electric, gas, or oil appliances of the type used for cooking, warming, or keeping warm, food or beverages for consumption on the premises.
(7) Electric mixers, whippers, and juicers.
(8) Electric direct-motor and belt-driven fans and air circulators.
(9) Electric exhaust blowers.
(10) Electric or gas clothes driers.
(11) Electric door chimes.
(12) Electric dehumidifiers.
(13) Electric dishwashers.
(14) Electric food choppers and grinders.
(15) Electric hedge trimmers.
(16) Electric ice cream freezers.
(17) Electric mangles.
(18) Electric pants pressers.
(19) Electric, gas, or oil incinerator units and garbage disposal units.
(20) Power lawn mowers.

(b) *Rate and computation of tax.* Tax is imposed on the sale of the articles specified in section 4121 and paragraph (a) of this section at the rate of 5 percent of the price for which the article is sold. For the definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4121 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4121–2 Definitions.

For purposes of the tax imposed by section 4121, unless otherwise expressly indicated:

(a) *Articles of the household type.* The term "articles of the household type" includes all articles enumerated in section 4121 which have an actual, practical, commercial fitness, or are specifically designed and constructed, for household use.

(b) *Electric air heaters.* The term "Electric air heaters" includes all portable space heaters which are operated by electrical energy, regardless of the means utilized to directly produce heat. Some examples of taxable electrically operated air heaters are filament, filament and fan, radiant surface, hot water, and steam heaters. The term does not include furnaces.

(c) *Appliances used for cooking, etc.* The term "Electric, gas, or oil appliances of the type used for cooking, warming, or keeping warm, food or beverages for consumption on the premises" includes any type of appliance operated by, or for which the heat is generated by, electricity, gas, or oil, which is used to cook, warm, or keep warm, food or beverages for consumption on the premises. The following are some examples of articles subject to tax under this classification: coffee makers, ranges, roasters, toasters, waffle irons, griddles, casseroles, electric frying pans, hot plates, and broilers.

(d) *Electric fans and air circulators.* The term "Electric direct-motor and belt-driven fans and air circulators" includes all types of direct-motor and belt-driven fans and air circulators that provide movement or circulation of air, whether for intake or exhaust or for use within an enclosure, if they are designed and constructed to be operated as independent units.

(e) *Electric exhaust blowers.* The term "Electric exhaust blowers" includes all direct-motor-driven and belt-driven exhaust blowers which are designed and constructed to be operated as independent units.

§ 48.4121–3 Parts or accessories.

(a) *In general.* The tax attaches in respect of parts or accessories for articles specified in section 4121 and paragraph (a) of § 48.4121–1 sold on or in connection with the sale thereof at the rate applicable to the sale of the basic articles. The tax attaches in such case whether or not the parts or accessories are billed separately. On the other hand, no tax attaches in respect of parts or accessories for articles specified in section 4121 and paragraph (a) of § 48.4121–1 which are sold otherwise than on or in connection with such articles or with the sale thereof.

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof without parts or accessories which are considered equipment essential for the operation or appearance of such articles, the sale of such parts or accessories will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though they are shipped separately at the same time or on a different date.

§ 48.4121–4 Tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4121, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

§ 48.4121–5 Effective date.

The provisions of §§ 48.4121–1 through 48.4121–4 are effective as provided in Subpart A except that under the authority of section 7805(b) the provisions of such sections shall not be applicable in respect of sales made by a manufacturer, producer, or importer before the first day of the first calendar month which begins more than 30 days after the date of publication of the regulations in this subpart in the FEDERAL REGISTER of the following articles:

(a) Direct-motor-driven desk, bracket, and pedestal type fans and air circulators with blade diameter exceeding 16 inches.

(b) Electric belt-driven fans designed for use as exhaust or intake ventilating fans to be operated as independent units, with blade diameters of 40 or more inches.

ELECTRIC LIGHT BULBS

§ 48.4131 Statutory provisions; imposition of tax.

SEC. 4131. *Imposition of tax.* There is hereby imposed upon the sale by the manufacturer, producer, or importer of electric light bulbs and tubes, not including articles taxable under any other provision of this chapter, a tax equivalent to 10 percent of the price for which so sold.

[Section 4131 as originally enacted and in effect Jan. 1, 1959]

§ 48.4131–1 Imposition of tax.

(a) *In general.* Section 4131 imposes a tax on the sale of electric light bulbs and tubes by the manufacturer, producer, or importer. However, no tax attaches under section 4131 if the light bulbs and tubes are taxable under any other provision of chapter 32 of the 1954 Code as, for example, a light bulb taxable under section 4061(b) as an automobile accessory.

(b) *Rates and computation of tax.* Tax is imposed upon electric light bulbs and tubes at the rate of 10 percent of the price for which the article is sold. For the definition of the term "price", see section 4216 and the regulations thereunder contained in Subpart M of this part.

(c) *Liability for tax.* The tax imposed by section 4131 is payable by the manufacturer, producer, or importer making the sale.

§ 48.4131–2 Definitions.

For purposes of the tax imposed by section 4131, unless otherwise expressly indicated, the term "electric light bulbs and tubes" includes any device designed for the diffusion of artificial light for illuminative or decorative purposes through the use of electricity. The term does not include electric bulbs or tubes which are primarily designed for blueprinting, photoprinting, or other photocopying applications in which the ultraviolet radiation furnished by the bulbs or tubes is essential, nor does it include tubes shaped in the form of words, letters, numbers, or other meaningful symbols which convey a message or portion of a message.

§ 48.4131–3 Tax-free sales.

For provisions relating to tax-free sales of articles referred to in section 4131, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

[F.R. Doc. 59-9198; Filed, Oct. 29, 1959; 8:47 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 51—REGISTRY

The regulations of the Post Office Department are amended as follows:

Part 51—Registry is amended to read as follows:

Sec.
51.1 Why mail is registered.
51.2 Registration.
51.3 Declaration by sender.
51.4 Fees and return receipts.
51.5 Preparation for mailing.
51.6 Withdrawal or recall.
51.7 Delivery.

AUTHORITY: §§ 51.1 to 51.7 issued under R.S. 161, as amended, 396, as amended, 3926, as amended, sec. 3, 45 Stat. 469, as amended, sec. 3, 47 Stat. 340, sec. 12, 65 Stat. 676, as amended; 5 U.S.C. 22, 369, 39 U.S.C. 246f, 381, 381a, 384a.

§ 51.1 Why mail is registered.

Added protection for valuable and important mail and evidence of mailing and delivery may be obtained by having it registered.

§ 51.2 Registration.

(a) *What may be registered.* (1) First-class mail.

(2) Airmail not likely to damage from freezing.

(3) Second-class mail.

(4) Third-class mail.

(5) Fourth-class mail prepaid with postage at the first-class rate.

(b) *Where to mail.* Registration may be obtained by presenting mail to:

(1) *Post offices and their branches and stations.* Postmasters will accept mail of unusually high value only at the main office or the larger branches and stations.

(2) *Rural carriers.* Mail and cash may be left in a rural box, and the change, if any, will be handed to the sender or placed in an envelope and left in the box on the carrier's next trip. No responsibility is assumed for articles or money until a receipt is issued.

(c) *Registration not available.* Mail may not be registered if:

(1) Placed in street letter boxes or in mail drops in post offices.

(2) Addressed to post offices to which it cannot be transported with safety.

(3) Not properly prepared. See § 51.5.

(4) Two or more articles are tied or fastened together, unless enclosed in the same envelope or wrapper.

§ 51.3 Declaration by sender.

(a) *Value.* The sender is required by law to tell the postal clerk or to enter on the firm mailing bill if a firm mailer, the full value of mail matter presented for registration. The fact that private insurance may be carried on registered mail does not modify the requirement for declaring the value as defined below:

Kind of mail matter	*Value to be declared*
Negotiable instruments: Instruments payable to bearer, and matured interest coupons.	Market value.
Nonnegotiable instruments: All registered bonds, warehouse receipts, checks, drafts, deeds, wills, abstracts, and similar documents. Certificates of stock, including those endorsed in blank, are considered nonnegotiable so far as declaration of value is concerned.	No value. However, if postal insurance coverage is desired for replacement cost, declare estimated replacement cost.
Money	Full value.
Jewelry, gems, precious metals	Full value.
Merchandise	Market value.

(b) *Fragile mail.* The sender is required to tell the postal clerk whether the mail is fragile and to describe how it is packed if requested to do so.

(c) *Official mail.* Government agencies or officials must declare the value of the matter presented so that it may be given proper care.

(d) *Free registration.* A declaration of value is not required on mail registered free under the provisions of § 51.4 (g) (4) and (5). No indemnity will be paid for any matter registered free.

§ 51.4 Fees and return receipts.

(a) *Registry fees (in addition to postage).*

Declared value (Must be full value)	Fees: If mailer does not have commercial or other insurance	Fees: If mailer has commercial or other insurance	Postal liability
$0.00 to $10.00	$0.50	$0.50	Without commercial or other insurance—declared value. With commercial or other insurance—declared value or prorated.
$10.00 to $100	.75	.75	
$100.01 to $200	1.00	1.00	
$200.01 to $400	1.25	1.25	
$400.01 to $600	1.50	1.50	
$600.01 to $800	1.75	1.75	
$800.01 to $1,000	2.00	2.00	
$1,000.01 to $2,000	2.25	2.15	Without commercial or other insurance—declared value. With commercial or other insurance—$1,000 maximum or prorated.
$2,000.01 to $3,000	2.50	2.30	
$3,000.01 to $4,000	2.75	2.45	
$4,000.01 to $5,000	3.00	2.60	
$5,000.01 to $6,000	3.25	2.75	
$6,000.01 to $7,000	3.50	2.90	
$7,000.01 to $8,000	3.75	3.05	
$8,000.01 to $9,000	4.00	3.20	
$9,000.01 to $10,000	4.25	3.35	
$10,000.01 to $1,000,000	$4.25 plus 15¢ per $1,000, or fraction, above $10,000.	$3.35 plus 15¢ per $1,000, or fraction, above $10,000.	Without commercial or other insurance—$10,000. With commercial or other insurance—$1,000 maximum or prorated.
$1,000,000.01 to $15,000,000	$152.75 plus 10¢ per $1,000, or fraction, above $1,000,000.	$151.85 plus 10¢ per $1,000, or fraction, above $1,000,000.	Without commercial or other insurance—$10,000. With commercial or other insurance—$1,000 maximum or prorated.
Over $15,000,000	Additional charges may be applied based on consideration of weight, space, and value.		Without commercial or other insurance—$10,000. With commercial or other insurance—$1,000 maximum or prorated.

(b) *Fees for restricted delivery and return receipts (in addition to postage and registry fees).*

	Cents
Restricted delivery	50
Return receipts:	
Requested at time of mailing:	
Showing to whom and when delivered	10
Showing to whom, when, and address where delivered	35
Requested after mailing: Showing to whom and when delivered	25

(c) *Matter not having intrinsic value.* Articles having no intrinsic value may be registered on payment of the 50-cent fee or any of the higher fees.

(d) *Return receipts.* The sender may obtain return receipts by paying fees, in addition to the registration fee and postage, under the following conditions:

(1) At the time of mailing by informing the postal clerk or by writing on the mail Return Receipt Requested or Return Receipt Requested Showing Address Where Delivered.

(2) After mailing by request and showing registration receipt at the post office where the registered article was mailed. The return receipt will not show the address where delivery was made.

(3) Return by air: The sender may obtain a return receipt by airmail if postage stamps to cover the postal card airmail rate are fixed to the return receipt and it is endorsed Return by Airmail.

(e) *Restricted delivery.* The sender may at the time of mailing direct that the registered article be delivered only to the addressee or to some one named by him in writing. This service is available only for articles addressed to specific individuals by name. An additional fee is required. The mail will be endorsed Deliver to Addressee Only or Deliver to Addressee or Order. After mailing and before delivery, the sender may direct such action by written order through the mailing postmaster. See also § 51.7(g).

(f) *Refunds.* Registration fees will not be refunded after the mail is accepted. Return receipt or restricted delivery fees will be refunded only when the failure to furnish a return receipt or to give restricted delivery was the fault of the Postal Service. Receipts for fees must be submitted with requests for refunds.

(g) *Registration of mail without prepayment.* (1) Official mail of govern-

ment agencies that periodically reimburse the Post Office Department for handling their mail, or that pay for mail services on a negotiated basis, may be registered without stamps affixed. See § 27.2(c) of this chapter.

(2) All mail relating to the census and addressed to the Census Office, or to any official thereof, that is endorsed Official Business, Census Office, may be sent by registered mail without payment of a registration fee.

(3) All mail relating to naturalization, including duplicate papers required to be sent to the Immigration and Naturalization Service by clerks of State or Federal courts addressed to the Department of Justice or to the Immigration and Naturalization Service, may be sent by registered mail without payment of a registration fee, if endorsed Official Business.

(4) Members of the diplomatic corps of the countries of the Postal Union of the Americas and Spain who are stationed in the United States may send correspondence by registered mail without payment of the registration fee. See § 27.5(a) (1) of this chapter for preparation of such mail.

(5) Official correspondence may be sent by registered mail between consulates (consuls and vice consuls) of the countries of the Postal Union of the Americas and Spain stationed in the United States and by such consulates to the Government of the United States or to their respective embassies or legations without payment of the registration fee. See § 27.5(a) (2) of this chapter for preparation of such mail.

(6) Currency sent to the Treasurer of the United States, Washington, D.C., for redemption, contained in letters or parcels with postage prepaid by the sender, and redeemed currency mailed to the Treasurer of the United States, may be transmitted by registered mail without payment of registration fee, under the following conditions:

(i) The contents must be exhibited to the postmaster and a list furnished giving a detailed description of the money. For currency, the serial number, series date, and denomination must be given. Coin need be described only by number and denomination of pieces.

(ii) After the contents have been compared with the list and found correct, the letter or parcel must be sealed in the presence of the postmaster.

(iii) The list must be left with the postmaster.

(iv) No liability is assumed by the Postal Service. If coverage is desired, the regular registration fees must be paid for liability.

(7) Letters or parcels relating exclusively to the business of the United States Civil Service Commission, Washington, D.C., and addressed to the Commission by members of local boards of examiners outside Washington, are registered free.

(8) Official mail of the Postal Service which requires registration may be registered without payment of a fee.

§ 51.5 Preparation for mailing.

(a) *All mail.* Postal employees are not permitted to assist in the preparation or sealing of mail to be registered. The mail must bear the complete names and addresses of both sender and addressee. Envelopes or packages that appear to have been opened and resealed, or which are otherwise improperly prepared, will not be registered.

(b) *First- and fourth-class mail.* The sender must securely seal envelopes. Self-sealing envelopes are not acceptable. Do not place paper or cellulose strips or wax or paper seals over the intersections of the flaps where the postmark impressions are made. Wrap and seal packages with mucilage or glue or with plain paper strips. Packages containing currency or securities may not be sealed exclusively by use of paper strips, but must first be sealed securely with mucilage or glue.

(c) *Second- and third-class mail and controlled publications.* The sender may register these classes of mail having no intrinsic value in unsealed envelopes, wrappers, or other containers. If such mail has intrinsic value, the sender must seal the container and pay first-class postage. The second- and third-class and controlled publication postage rates will not be accepted on sealed mail.

(d) *Window envelopes.* Envelopes must have panels covering the opening. If transparent panels are glued to the envelopes, they may contain only matter without intrinsic value. If the panel is part of the envelope, the envelope may be used for all registered mail.

(e) *Firm registration books.* If an average of three or more articles are presented for registration at one time, the sender may obtain free from the postmaster firm registration books, Form 3877, (Firm mailing book for registered, registered COD, and certified mail (20 entry)), which are to be used in accordance with instructions that will be given by the postmaster. These instructions will require that the mail be endorsed and numbered from a series of registration numbers that will be assigned by the postmaster, and that the sender also enter the particulars of the items on the firm bills in duplicate. One copy of the bill will be retained by the post office and the other will be receipted and returned to the sender.

(f) *Return receipts and restricted delivery.* Firm mailers, are expected to complete and attach the return receipt card, Form 3811, (Return receipt registered, insured and certified mail), to the mail, and to endorse the address side of the mail to show the required official endorsement. See § 51.4 (d) and (e). If the mail is to be restricted in delivery, the words "Deliver to Addressee Only" should be shown in space 2 on the receipt side of the return receipt card.

(g) *Mailing receipts.* A receipt will be issued when mail is accepted for registration. For individual transactions, the receipt is prepared by the postal employee. When firm registration forms are used, the receipt will be postmarked and issued after the entries have been checked against the mail. A temporary receipt showing only the total number of articles may be issued when a large number of articles are mailed. The permanent descriptive receipt will be issued as soon as possible after verification.

§ 51.6 Withdrawal or recall.

The sender may withdraw or recall registered mail without charge before its delivery under the following conditions:

(a) Before dispatch by writing on the receipt Withdrawn before dispatch, and signing and surrendering the receipt.

(b) After dispatch by filing at the post office where the article was mailed a written request for its return, giving names and addresses of sender and addressee, the registry number, and date of mailing. Costs of telegrams must be paid by the sender.

§ 51.7 Delivery.

(a) *Procedure.* The responsibility of the Postal Service for registered mail ends with its proper delivery. Mail for delivery by carriers is taken on the first trip after it is received unless the addressee has requested the postmaster to hold his mail at the post office. The addressee or person representing him may obtain the name and address of the sender, and may look at registered mail while it is held by the postal employee, before accepting delivery and signing the delivery receipt. Identification will be required if the applicant for registered mail is unknown. The mail will not be given to the addressee until the delivery receipt is obtained by the postal employee.

(b) *Recipient.* Delivery will be made in accordance with part 44 of this chapter. Registered mail addressed to residents of a hotel or apartment house will be delivered only to persons designated by the management of a hotel or apartment house in an agreement with the Postal Service.

(c) *When not delivered.* The addressee may be required to call at the post office for registered mail if its delivery by a carrier would not be safe.

(d) *Notice of arrival.* If the carrier is unable to deliver registered mail, he will leave a notice. If the mail is not delivered by carrier, a notice of arrival will be issued through regular mail channels. If the mail is not delivered or called for within 5 days a second notice will be issued, provided the maximum period for which the mail may be held permits. No second attempt to deliver will be made unless the post office is requested to do so.

(e) *Rural delivery.* Rural carriers will deliver registered mail to the residence if it is not more than ½ mile from the route and if there is a passable road leading to it. Otherwise, the carrier will leave a notice in the box so that the addressee may either meet him at the box on his next trip or call at the post office for the mail.

(f) *Star-route delivery.* Star-route carriers may deliver registered mail only when the addressee has authorized the postmaster in writing to give the mail to the carrier. The carrier is then considered the representative of the addressee, and the responsibility of the Postal Service ends at the time of delivery to the carrier.

(g) *Restricted delivery.* The fee for this service must be paid at the time of

mailing. The mail must be conspicuously endorsed Deliver to Addressee Only or Deliver to Addressee or Order. The endorsement, if not placed by the mailer, will be entered by the employee accepting the mail. Restricted delivery service is subject to the following rules:

(1) Mail marked Deliver to Addressee Only will be delivered only to the addressee, except as provided in paragraph (d) of this section.

(2) Mail marked Deliver to Addressee or Order may be delivered either to the address or to the person he authorizes in writing to receive his mail.

(3) When the mail is addressed jointly to two or more persons, the addressees will be notified to be present to accept delivery together, and the delivery receipt obtained, and the return receipt, if any, must be signed by all of the addressees. The registered article then may be delivered to any of the addressees unless the others object, in which case delivery will not be made until all of the addressees sign a statement designating the one to receive the mail.

(4) When the registered mail is addressed to officials of executive agencies, or members of the legislative and judicial branches of the Government of the United States, or of the States and possessions, or to members of the diplomatic corps, delivery may be made either to the addressee or to the person he authorizes to receive his mail.

(h) *Bad condition.* If the addressee accepts a registered article that has been repaired with sealing stamps or reenclosed in a new envelope or wrapper, it must be opened in the presence of the delivering employee. If anything is missing, the envelope or wrapper must be given to the employee after it has been endorsed to show what was missing.

NOTE: The corresponding Postal Manual Part is 161.

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-9197; Filed, Oct. 29, 1959; 8:47 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Ineligibility of Certain Dividends for Intercorporate Dividends-Received Deduction

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 18 of the Technical Amendments Act of 1958 (72 Stat. 1614), such regulations are amended as follows:

PARAGRAPH 1. Section 1.246 is amended by adding at the end of section 246(b) the following:

Sec. 246. *Rules applying to deductions for dividends received.* * * *

(c) *Exclusion of certain dividends*—(1) *In general.* No deduction shall be allowed under section 243, 244 or 245, in respect to any dividend on any share of stock—

(A) Which is sold or otherwise disposed of in any case in which the taxpayer has held such share for 15 days or less, or

(B) To the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make corresponding payments with respect to substantially identical stock or securities.

(2) *90-day rule in the case of certain preference dividends.* In the case of any stock having preference in dividends, the holding period specified in paragraph (1)(A) shall be 90 days in lieu of 15 days if the taxpayer receives dividends with respect to such stock which are attributable to a period or periods aggregating in excess of 366 days.

(3) *Determination of holding periods.* For purposes of this subsection, in determining the period for which the taxpayer has held any share of stock—

(A) The day of disposition, but not the day of acquisition, shall be taken into account,

(B) There shall not be taken into account any day which is more than 15 days (or 90 days in the case of stock to which paragraph (2) applies) after the date on which such share becomes ex-dividend, and

(C) Paragraph (4) of section 1223 shall not apply.

The holding periods determined under the preceding provisions of this paragraph shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary or his delegate) for any period (during such holding periods) in which the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities.

[Sec. 246(c) as added by sec. 18, Technical Amendments Act 1958 (72 Stat. 1614)]

PAR. 2. There is inserted after § 1.246-2 the following new section:

§ 1.246-3 Exclusion of certain dividends.

(a) *In general.* Corporate taxpayers are denied, in certain cases, the dividends-received deduction provided by section 243 (dividends received by corporations), section 244 (dividends received on certain preferred stock), and section 245 (dividends received from certain foreign corporations). The above-mentioned dividends-received deductions are denied, under section 246(c)(1), to corporate shareholders:

(1) If the dividend is in respect of any share of stock which is sold or otherwise disposed of in any case where the taxpayer has held such share for 15 days or less; or

(2) If and to the extent that the taxpayer is under an obligation to make corresponding payments with respect to substantially identical stock or securities. It is immaterial whether the obligation has arisen pursuant to a short sale or otherwise.

(b) *Ninety-day rule for certain preference dividends.* In the case of any stock having a preference in dividends, a special rule is provided by section 246(c)(2) in lieu of the 15-day rule described in section 246(c)(1) and paragraph (a)(1) of this section. If the taxpayer receives dividends on such stock which are attributable to a period or periods aggregating in excess of 366 days, the holding period specified in section 246(c)(1)(A) shall be 90 days (in lieu of 15 days).

(c) *Definitions*—(1) *"Otherwise disposed of".* As used in this section the term "otherwise disposed of" includes disposal by gift.

(2) *"Substantially identical stock or securities".* The term "substantially identical stock or securities" is to be applied according to the facts and circumstances in each case. In general, the term has the same meaning as the corresponding terms in sections 1091 and 1233 and the regulations thereunder. See paragraph (d)(1) of § 1.1233-1.

(3) *Obligation to make corresponding payments.* (i) Section 246(c)(1)(B) of the Code denies the dividends-received deduction to a corporate taxpayer to the extent that such taxpayer is under an obligation, with respect to substantially identical stock or securities, to make payments corresponding to the dividend received. Thus, for example, where a corporate taxpayer is in both a "long" and "short" position with respect to the same stock on the date that such stock goes ex-dividend, the divi-

dend received on the stock owned by the taxpayer will not be eligible for the dividends-received deduction to the extent that the taxpayer is obligated to make payments to cover the dividends with respect to its offsetting short position in the same stock. The dividends-received deduction is denied in such a case without regard to the length of time the taxpayer has held the stock on which such dividends are received.

(ii) The provisions of subdivision (i) of this subparagraph may be illustrated by the following example:

Example. Y Corporation owns 100 shares of the Z Corporation's common stock on January 1, 1959. Z Corporation on January 15, 1959, declares a dividend of $1.00 per share payable to shareholders of record on January 30, 1959. On January 21, 1959, Y Corporation sells short 25 shares of the Z Corporation's common stock and remains in the short position on January 31, 1959, the day that Z Corporation's common stock goes ex-dividend. Y Corporation is therefore obligated to make a payment to the lender of the 25 shares of Z Corporation's common stock which were sold short, corresponding to the $1.00 a share dividend that the lender would have received on those 25 shares, or $25.00. Therefore, $25.00 of the $100.00 that the Y Corporation receives as dividends from the Z Corporation with respect to the 100 shares of common stock in which it has a long position is not eligible for the dividends-received deduction.

(d) *Determination of holding period*—(1) *In general.* Special rules are provided by paragraph (3) of section 246(c) for determining the period for which the taxpayer has held any share of stock for purposes of the restriction provided by such section. In computing the holding period the day of disposition but not the day of acquisition shall be taken into account. Also, there shall not be taken into account any day which is more than 15 days after the date on which the share of stock becomes ex-dividend. Thus, the holding period is automatically terminated at the end of such 15-day period without regard to how long the stock may be held after that date. In the case of stock qualifying under paragraph (2) of section 246(c) (as having preference in dividends) a 90-day period is substituted for the 15-day period in the rule mentioned above. Finally, section 1223(4), relating to holding periods in the case of wash sales, shall not apply. Therefore, tacking of the holding period of the stock disposed of to the holding period of the stock acquired where a wash sale occurs is not permitted for purposes of determining the holding period described in section 246(c).

(2) *Special rules.* Section 246 (c) requires that the holding periods determined thereunder shall be appropriately reduced for any period that the taxpayer's stock holding is offset by a corresponding short position resulting from an option to sell, a contractual obligation to sell, or a short sale of, substantially identical stock or securities. The holding periods of stock held for a period of 15 days or less on the date such short position is created shall accordingly be reduced to the extent of such short position. Where the amount of stock acquired within such period exceeds the amount as to which the taxpayer establishes a short position, the stock the holding period of which must be reduced because of such short position shall be that most recently acquired within such period. If, on the date the short position is created, the amount of stock subject to the short position exceeds the amount, if any, of stock held by the taxpayer for 15 days or less, the excess shares of stock sold short shall, to the extent thereof, postpone until the termination of the short position the commencement of the holding periods of subsequently acquired stock. Stock having a preference in dividends is also subject to these rules, except that the 90-day period provided by paragraph (b) of this section shall apply in lieu of the 15-day period otherwise applicable. These rules may be illustrated by the following examples:

Example (1). L Company purchased 100 shares of Z Corporation's common stock during January 1959. On November 26, 1959, L Company purchased an additional 100 shares of the same stock. On December 1, 1959, Z Corporation declared a dividend payable on its common stock to shareholders of record on December 20, 1959. Also on December 1, L Company sold short 150 shares of Z Corporation's common stock. On December 16, 1959 (before the stock went exdividend), L Company closed its short sale with 150 shares purchased on that date. In determining, for purposes of section 246(c), whether L Company has held the 100 shares of stock acquired on November 26 for a period in excess of 15 days, the period of the short position (from December 2 through December 16) shall be excluded. Thus, if on or before December 26, 1959, L Company sold the 100 shares of Z Corporation stock which it purchased on November 26, 1959, it would not be entitled to a dividends-received deduction for the dividends received on such shares because it would have held such shares for 15 days or less on the date of the sale. Since L Company had held the 100 shares acquired during January 1959 for more than 15 days on December 2, 1959, and since it was under no obligation to make payments corresponding to the dividends received thereon, section 246(c) is inapplicable to the dividends received with respect to those shares.

Example (2). Assume the same facts as in example (1) above except that the additional 100 shares of Z Corporation common stock were purchased by L Company on December 10, 1959, rather than November 26, 1959. In determining, for purposes of section 246(c), whether L Company has held such shares for a period in excess of 15 days, the period from December 11, 1959, until December 16, 1959 (the date the short sale made on December 1 was closed), shall be excluded.

(e) *Effective date.* The provisions of this section shall apply to stock acquired after December 31, 1957, or with respect to stock acquired before that date where the taxpayer has made a short sale of substantially identical stock or securities after that date.

[F.R. Doc. 59-9199; Filed, Oct. 29, 1959; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 997]

FILBERTS GROWN IN OREGON AND WASHINGTON

Proposed Budget of Expenses, Including Operating Reserve, of Filbert Control Board and Rate of Assessment for 1959–60 Fiscal Year

Notice is hereby given that there is under consideration a proposal regarding expenses, including the establishment of an operating monetary reserve, of the Filbert Control Board and rate of assessment for filberts during the 1959–60 fiscal year which began August 1, 1959. The proposal, which is based on the recommendation of the Filbert Control Board and other available information, would be established in accordance with the applicable provisions of Marketing Agreement No. 115, as amended, and Order No. 97, as amended (7 CFR Part 997 24 F.R. 6185), regulating the handling of filberts grown in Oregon and Washington. Said amended marketing agreement and order are effective under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Consideration will be given to data, views, or arguments pertaining to the proposal which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., not later than ten days after publication of this notice in the FEDERAL REGISTER.

It is estimated that expenses, including operating reserve requirements, of the Filbert Control Board during the 1958–59 fiscal year will approximate a total of $26,080. Based on the volume of filberts estimated to be subject to this regulatory program during the 1959–60 fiscal year, an assessment rate of 0.20 cent per pound of assessable filberts is expected to provide sufficient funds to meet the estimated expenses and reserve requirements of the Board for said fiscal year.

The proposal is as follows:

§ 997.304 Budget of expenses of the Filbert Control Board, and rate of assessment for 1959–60 fiscal year.

(a) *Budget of expenses.* The budget of expenses (including maintenance of an operating reserve fund) of the Filbert Control Board for the fiscal year beginning August 1, 1959, shall be in the total amount of $26,080, such amount being reasonable and likely to be incurred for maintenance and functioning of the Board, and for such purposes as the Secretary may, pursuant to the provisions of the amended marketing agreement and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for the said fiscal year, pay-

able in accordance with said amended marketing agreement and this part by each handler to the Filbert Control Board on demand, shall be 0.20 cent per pound of assessable filberts.

Dated: October 26, 1959.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 59-9176; Filed, Oct. 29, 1959; 8:46 a.m.]

[7 CFR Part 1005]

[Docket No. AO-272-A1]

MILK IN NORTH CENTRAL IOWA MARKETING AREA

Decision on Proposed Amendents to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Waterloo, Iowa, on April 9, 1959, pursuant to notice thereof issued on March 10, 1959 (24 F.R. 1841).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on September 29, 1959 (24 F.R. 7963) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area.
2. Designating a cooperative association as a handler with respect to milk received from producers in bulk tank trucks operated under the control of such association.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof.

1. The marketing area should include all of the territory within the city of Osage and the counties of Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Marshall, Tama, Webster, and Wright, all in the State of Iowa. The marketing area is now limited to Black Hawk County and 13 specified cities, all of which are contained within the enlarged area herein recommended. The population of the present marketing area, according to the 1950 census, was approximately 225,000. For the city of Osage and the 18 counties herein recommended as the marketing area, the 1950 population was approximately 494,000.

The expanded marketing area will conform more closely with the sales territory of regulated handlers and will bring under regulation unregulated distributors who now enjoy a competitive advantage over regulated handlers. The principal unregulated handlers who would be affected by the change are the Britt Creamery, Britt, Iowa; Garner Cooperative Creamery, Garner, Iowa; Perfection Dairy and Evergreen Dairy, Iowa Falls, Iowa; Humphrey Dairy, West Union, Iowa; Independence Dairy and Wapsie Valley Creamery, Independence, Iowa. Milk from these plants is distributed in the proposed enlarged marketing area in competition with milk from regulated plants.

Handlers who are now unregulated and who distribute in the proposed marketing area have not been required to pay the minimum class prices under the North Central Iowa order to which their principal competitors are subject. These unregulated handlers pay from $3.35 to $3.80 for milk purchased from dairy farmers for fluid use. During 1958 the North Central Iowa order Class I price ranged from $3.57 to $4.05 and averaged $3.87. The price advantage enjoyed by unregulated handlers has tended to bring about instability in the marketing of milk in the proposed enlarged area and has impaired the effectiveness of the North Central Iowa order.

Waterloo, Marshalltown, Mason City, Charles City and Fort Dodge are the principal points at which milk from producers is received and packaged for distribution throughout the marketing area. A substantial proportion of the distribution from these cities is in the smaller cities and rural areas of the various counties recommended for inclusion in the marketing area. Because of this, the best interest of the market would be served by defining the marketing area on the basis of county rather than city boundaries.

Milk products sold for fluid consumption by all handlers who would be regulated by the proposed amended order are distributed under a Grade A label and must be approved by local and state health authorities who are governed by health ordinances, practices and procedures patterned after the United States Public Health Ordinance and Code. Movements of Grade A milk, both in bulk and packaged form, between various localities in the marketing area take place through reciprocal approval of the responsible health authorities.

It was proposed by producers that the counties of Benton, Kossuth, Winnebago and Worth be included in the marketing area. Sales in these counties by handlers regulated by the North Central Iowa order are relatively small. Extension of regulation to the counties of Kossuth, Winnebago and Worth would bring under regulation handlers who distribute a major portion of their Grade A milk receipts in counties outside of the proposed marketing area and whose principal competitors would not be regulated by any order. A large percentage of the Grade A milk sold in Benton County is supplied by handlers who are regulated by the Cedar Rapids-Iowa City order. Although North Central Iowa handlers distribute some milk in Benton County their only competition is with handlers regulated by the Cedar Rapids-Iowa City order. Accordingly, these counties should not be included in the expanding marketing area.

It is neither administratively feasible nor necessary to include in the marketing area all territory in which handlers to be regulated distribute milk. Furthermore, it would not be possible to designate a marketing area of reasonable size which would include all sales outlets of each and every handler that would be subject to regulation. As additional territory would be added, the problems associated with the extension of regulation to distributors that make a substantial portion of their fluid milk sales outside the market would be increased many fold. By providing for a marketing area as proposed herein, regulation would be at a minimum for milk distributors with a large proportion of their sales outside the marketing area and their operations would not be unduly disturbed with respect to the major portion of their sales in communities wherein they compete with other distributors who would not be regulated at all by the proposed order.

2. Under certain conditions a cooperative association should be designated a handler with respect to milk it receives from producers in tank trucks.

All but a small proportion of the milk from farms of producers under the North Central Iowa order is transported in tank trucks. The Cedar Valley Cooperative Milk Marketing Association, the Des Moines Cooperative Dairy and the North Iowa Cooperative Milk Marketing Association (which cooperatives represent about 90 percent of the producers on the market) are the principal operators of such tank trucks in which milk is moved from producers' farms to the plants of the various handlers under the order. The weight and butterfat content of each such producer's delivery are ascertained at the farm by a representative of his cooperative. Plant operators receiving such milk have no such information except as it is made available to them by the cooperative.

Under the above mentioned conditions it would be administratively feasible for such plant operators to pay the cooperative association for such milk at not less than the applicable class prices for producer milk at the location of the pool plant to which it is delivered by the tank truck. This would be accomplished most effectively by designating a cooperative association as a handler with respect to milk received from producers in tank trucks operated under the control of such cooperative when such milk is moved directly to pool plants.

The change herein recommended will not change the responsibility of the operators of pool plants with respect to payment for milk moved directly to such plants from producers' farms in tank trucks operated under the control of a cooperative association. For the purpose of computing the obligation of the pool plant operators such milk would be considered as producer milk. However, the cooperative association would be responsible in accounting for the weights and tests of the milk from each producer's farm contained in any farm pick-up tank truck operated under its control, irrespective of whether deliveries from a

farm tank pick-up truck are made to a single plant or to a number of plants.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the North Central Iowa Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the North Central Iowa Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Referendum Order; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the North Central Iowa marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of August 1959 is hereby determined to be the representative period for the conduct of such referendum.

E. H. McGuire is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referendum to be completed on or before the 30th day from the date this decision is issued.

Issued at Washington, D.C., this 27th day of October 1959.

CLARENCE L. MILLER,
Assistant Secretary.

Order[1] *Amending the Order Regulating the Handling of Milk in the North Central Iowa Marketing Area*

§ 1005.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the North Central Iowa marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 1005.46, and (c) Class I milk disposed of in the marketing area (except to pool plants) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the Act.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the North Central Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Amend § 1005.6 to read as follows:

§ 1005.6 North Central Iowa marketing area.

"North Central Iowa marketing area" (hereinafter called the "marketing area") means all the territory within the boundaries of the city of Osage and the counties of Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Marshall, Tama, Webster, and Wright, all in the State of Iowa, including territory within such boundaries which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions or other establishments.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

2. Amend § 1005.12 to read as follows:

§ 1005.12 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more distributing or supply plants.

(b) A cooperative association with respect to Grade A milk received from dairy farmers in a tank truck, the operation of which is under the control of such cooperative association, and delivered in such tank truck to a pool plant: *Provided,* That such milk shall be deemed to have been received directly from producers at the location of the pool plant by the operator of the pool plant to which it is delivered by the tank truck.

[F.R. Doc. 59-9207; Filed, Oct. 29, 1959; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 72–74, 78]

[Docket No. 3666; Notice 41]

TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Notice of Proposed Rule Making

OCTOBER 13, 1959.

The Commission is in receipt of applications for early amendment of the above-entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway. The proposed amendments are set forth below and the reasons therefor are listed in the Appendix set forth below.

Application for the proposed amendments have been the subject of exchanges and study by various interested parties, in which substantial agreement has been reached.

Any party desiring to make representations in favor of or against the proposed amendments may do so through the submission of written data, views, or arguments. The original and five copies of such submission may be filed with the Commission on or before November 16, 1959. The proposed amendments are subject to change or changes that may be made as a result of such submissions.

Notice to the general public will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy of the notice with the Director, Office of the Federal Register.

(62 Stat. 738, 18 U.S.C. 831–835; 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 49 U.S.C. 304)

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY, *Secretary.*

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5 Commodity List (18 F.R. 801, Feb. 7, 1953) (15 F.R. 8266, 8271, 8272, Dec. 2, 1950) as follows:

§ 72.5 List of explosives and other dangerous articles.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Change)				
Calcium hypochlorite compounds, dry, containing more than 39 percent available chlorine.	Oxy. M	73.153, 73.217	Yellow	100 pounds.
Difluoroethane	F.G	73.302, 73.308, 73.314, 73.315.	Red gas	300 pounds.
*Rough ammoniate tankages	F.S	No exemption, 73.153(c)(50), 73.210.	Yellow	Not accepted.
*Tankage fertilizers	F.S	No exemption, 73.153(c)(49), 73.209.	Yellow	Not accepted.
*Tankages, rough ammoniate	F.S	No exemption, 73.152(c)(50), 73.210.	Yellow	Not accepted.
(Add)				
Decaborane	F.S	No exemption, 73.236.	Yellow	25 pounds.
Dispersant gas, n.o.s	F.G	73.302, 73.306, 73.314.	Red gas	300 pounds.
Refrigerant gas, n.o.s	F.G	73.302, 73.306, 73.314.	Red gas	300 pounds.

PART 73—SHIPPERS

Subpart A—Preparation of Articles for Transportation by Carriers by Rail Freight, Rail Express, Highway, or Water

In § 73.22 add paragraph (h) (15 F.R. 8277, Dec. 2, 1950) to read as follows:

§ 73.22 Specification containers prescribed.

* * * * *

(h) Aluminum drums complying with Spec. 42G, manufactured prior to _____ _____ may be continued in service, provided they are plainly marked ICC–42G, are embossed with maker's name or symbol, gauge of metal, capacity, year of manufacture, and are capable of withstanding the leakage test prescribed by § 78.111–11 of this chapter.

In § 73.28 amend the introductory text of paragraph (a) (23 F.R. 2322, April 10, 1958) to read as follows:

§ 73.28 Reused containers.

(a) Containers used more than once (refilled and reshipped after having been previously emptied) must be in such condition, including closing devices and cushioning materials, that they will protect their contents during transit as efficiently as new containers. Repairs must be made in an efficient manner in accordance with requirements for materials and construction as prescribed in Part 78 of this chapter for new containers and parts that are weak, broken, or otherwise deteriorated must be replaced (see paragraphs (e), (f), (g), (h), and (i) of this section for containers that cannot be reused).

In § 73.34 amend the introductory text of paragraph (j); amend paragraph (k) table and paragraph (k)(1); add paragraph (k)(14) (15 F.R. 8283, 8284, Dec. 2, 1950) (21 F.R. 7598, Oct. 4, 1956) (17 F.R. 1558, Feb. 20, 1952) to read as follows:

§ 73.34 Qualification, maintenance, and use of cylinders.

* * * * *

(j) Quinquennial retest of cylinders. Each cylinder, except as specifically provided in paragraph (k) of this section, must be subjected, at least once in five years, to a test by interior hydrostatic pressure in a water jacket, or other apparatus of suitable form, for the determination of the expansion of the cylinder. The test apparatus must be approved as to type and operation by the Bureau of Explosives. This periodic retest must include a visual internal and external examination, except that the internal inspection may be omitted for cylinders of the type and in the service described under paragraph (k)(11) of this section: *Provided,* That without regard to date of previous test, cylinders of ICC–4 (§ 78.48 of this chapter) type that show bad dents or other evidence of rough usage, or that are corroded locally to such extent as to indicate possible weakness, or that have lost as much as 5 percent of their official tare weight, must be retested before being again charged and shipped. After any retest, the actual tare weight for those cylinders passing the test may be recorded as their new official tare weight.

(k) * * *

Specification under which cylinders were made	Minimum retest pressure (pounds per square inch)
(Add)	
ICC-3HT	5/3 times the service pressure. (See § 73.301 (g).) (See § 73.34 (k)(14) for additional retest requirements for ICC–3HT cylinders.)

Exceptions. (1) All cylinders, except Specification ICC–3HT (§ 78.44 of this chapter) cylinders, not exceeding 2 inches outside diameter and length less than two feet are exempted from the retest.

* * * * *

(14) In addition to the requirements of paragraph (j) of this section, cylinders marked ICC–3HT shall comply with the following:

(i) Cylinders shall be subjected, at least once in three years, to a test by hydrostatic pressure in a water jacket, for the determination of the expansion of the cylinder. A cylinder must be condemned if the elastic expansion exceeds the original elastic expansion by more than 5 percent.

(ii) A cylinder must be condemned if there is evidence of any denting or bulging.

(iii) A cylinder must be condemned at the termination of a 12-year period following the date of the original test or after 4,380 pressurizations (12 x 365), whichever comes first. If a cylinder is recharged more than once a day, an accurate record of the number of such rechargings must be maintained.

Subpart B—Explosives; Definitions and Preparation

In § 73.53 amend paragraph (h) (1) Note 4 (15 F.R. 8286, Dec. 2, 1950) to read as follows:

§ 73.53 Definition of class A explosives.

* * * * *

(h) * * *

(1) * * *

NOTE 4: The Bureau of Explosives Impact Apparatus is a testing device designed so that a guided 8-pound weight may be dropped from predetermined heights so as to impact specific quantities of liquid or solid materials under fixed conditions. Detailed prints may be obtained from the Bureau of Explosives, 63 Vesey Street, New York 7, New York.

Subpart C—Flammable Liquids; Definition and Preparation

In § 73.125 add paragraph (a) (6) (15 F.R. 8301, Dec. 2, 1950) to read as follows:

§ 73.125 Alcohol.

(a) * * *

(6) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside polyethylene bottles, not over 1-gallon capacity each, suitably cushioned to prevent movement within the box.

In § 73.128 add paragraph (a) (3) (20 F.R. 4414, June 23, 1955) to read as follows:

§ 73.128 Paints and related materials.

(a) * * *

(3) Spec. 52 (§ 78.246 of this chapter). Aluminum portable tanks. Authorized only for materials having flash point above 20° F.

In § 73.132 add paragraph (a) (2) (18 F.R. 5272, Sept. 1, 1953) to read as follows:

§ 73.132 Cement, liquid, n.o.s., container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, wallboard cement, and coating solution.

(a) * * *

(2) Spec. 52 (§ 78.246 of this chapter). Aluminum portable tanks. Authorized for materials irrespective of flash point but only those defined as viscous liquids by § 73.115(b).

Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

In § 73.150 amend paragraph (a) (15 F.R. 8302, 8303, Dec. 2, 1950) to read as follows:

§ 73.150 Flammable solid; definition.

(a) A flammable solid, for the purpose of Parts 71–78 of this chapter, is any solid material, other than one classified as an explosive, which, under conditions incident to transportation, is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation hazard. Examples: certain metallic hydrides, metallic sodium and potassium, and certain oily fabrics, processed meals, and nitrocellulose products.

In § 73.153 amend paragraph (b) and add paragraph (c) (69) (22 F.R. 7836, Oct. 3, 1957) (15 F.R. 8303, Dec. 2, 1950) to read as follows:

§ 73.153 Exemptions for flammable solids and oxidizing materials.

* * * * *

(b) Liquid or solid organic peroxides, except acetyl benzoyl peroxide, solid, and benzol peroxide, in strong outside containers having not over 1 pint or 1 pound net weight of the material in any one such package, having inside containers securely packed and cushioned with incombustible cushioning are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

(c) * * *

(69) Decaborane.

In § 73.195 amend paragraph (a) (4) (15 F.R. 8309, Dec. 2, 1950) to read as follows:

§ 73.195 Pyroxylin plastic scrap, photographic film scrap, X-ray film scrap, motion-picture film scrap, or pieces of exposed or unexposed film.

(a) * * *

(4) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes. Use of this container will be permitted because of the present emergency and until further order of the Commission.

In § 73.206 amend paragraph (c) (1) (21 F.R. 7600, Oct. 4, 1956) to read as follows:

§ 73.206 Sodium or potassium, metallic, sodium amide, sodium potassium alloys, lithium metal, lithium silicon, lithium hydride, and lithium aluminum hydride.

* * * * *

(c) * * *

(1) Spec. 105A300–W (§ 78.286 of this chapter). Tank cars, having exterior heater coils fusion welded to tank shell and properly stress-relieved, the material to be in molten condition when loaded into the tank and allowed to solidify before car is offered to the carrier. Outage must be 5 percent or more for sodium at fusion temperature of 208° F.

In § 73.229 add paragraph (b) (5) (22 F.R. 2226, Apr. 4, 1957) to read as follows:

§ 73.229 Chlorate and borate mixtures or chlorate and magnesium chloride mixtures.

* * * * *

(b) * * *

(5) Strong fiberboard boxes with not more than 4 inside paper bags spec. 2D (§ 78.23 of this chapter), having net weight not over 10 pounds each.

Add § 73.236 (15 F.R. 8312, Dec. 2, 1950) to read as follows:

§ 73.236 Decaborane.

(a) Decaborane must be packed in specification containers as follows:

(1) Spec. 6A, 6B or 6C (§§ 78.97, 78.98 or § 78.99 of this chapter). Metal barrels or drums.

(2) Spec. 17C, 17E, 17H, 37A, or 37B (§§ 78.115, 78.116, 78.118, 78.131, or § 78.132 of this chapter). Metal drums (single-trip).

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside containers which must be metal cans; sliding-lid wooden boxes; fiber cans or boxes, spec. 2G (§ 78.26 of this chapter), not over 5 pounds capacity each; or glass bottles not over 1 pound capacity each. Packages containing glass containers must not weigh over 65 pounds gross.

Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation

In § 73.240 amend the heading and paragraph (a) (15 F.R. 8312, Dec. 2, 1950) to read as follows:

§ 73.240 Corrosive liquids; definition.

(a) Corrosive liquids, for the purpose of parts 71–78 of this chapter, are acid or alkaline liquids containing 10 percent or more free mineral acid, or 10 percent or more free caustic soda, or other liquids which are of equally corrosive nature, or liquids which, under conditions incident to transportation will by contact, cause severe damage to living tissue through chemical action, cause severe damage to other lading by chemical action, or cause fire upon contact with other lading. The foregoing shall not include any liquid which experience has shown does not create a serious corrosive hazard in transportation.

In § 73.264 add paragraph (a) (4) (21 F.R. 7601, October 4, 1956) to read as follows:

§ 73.264 Hydrofluoric acid.

(a) * * *

(4) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with not more than 4 inside polyethylene bottles not over 1-gallon nominal capacity each. Shipper must have established that completed package meets test requirement prescribed by § 78.210–10 of this chapter. Authorized for acid not over 52 percent strength.

In § 73.265 amend paragraph (d) (4) (23 F.R. 2326, April 10, 1958) to read as follows:

§ 73.265 Hydrofluosilicic acid.

* * * * *

(d) * * *

(4) Spec. 37P (§ 78.133 of this chapter). Steel drums, not over 5-gallons capacity, with polyethylene liner (nonreusable container).

In § 73.266 add paragraph (c) (9) (15 F.R. 8318, Dec. 2, 1950) to read as follows:

§ 73.266 Hydrogen peroxide solution in water.

* * * * *

(c) * * *

(9) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass or polyethylene bottles, not over 1-gallon capacity each. Each bottle closure must be vented and each bottle completely contained in a securely closed polyethylene bag or tube constructed of material having minimum film thickness of 0.003 inch. Shipper must have established that completed package meets test requirements prescribed by § 78.210–10 of this chapter.

Subpart F—Compressed Gases; Definition and Preparation

In § 73.307 amend paragraph (a) (1) and add paragraph (a) (2) (16 F.R. 9376, Sept. 15, 1951) (15 F.R. 8326, Dec. 2, 1950) to read as follows:

§ 73.307 Nonliquefied gases, except gas in solution or poisonous gas.

(a) (* * *

(1) Spec. 3,[1] 3A, 3AA, 3B, 3C, 3D, 3E, 3HT, 4, 4A, 4B, 4BA, 4C, 7,[1] 25,[1] 26,[1] 33,[1] or 38.[1] (§§ 78.36, 78.37, 78.38, 78.40, 78.41, 78.42, 78.44, 78.48, 78.49, 78.50, 78.51, 78.52 of this chapter.) (See §§ 73.34 and 73.301(g).)

[No change in Note 1]

(2) Spec. 3HT (§ 78.44 of this chapter) cylinders are authorized for nonflammable gases, for aircraft use only, for a maximum service life of 12 years, and must be equipped with safety relief devices as required by § 73.34(f). Only a frangible disc safety relief device, without fusible metal backing, shall be used with Specification ICC–3HT cylinders and the rated bursting pressure of the disc shall not exceed 90 percent of the minimum required test pressure of the cylinder with which the device is used.

In § 73.308 amend paragraph (a) table and add paragraph (a) Note 15 (19 F.R. 8527, Dec. 14, 1954) (21 F.R. 7602, Oct. 4, 1956) (15 F.R. 8327, Dec. 2, 1950) to read as follows:

§ 73.308 Compressed gases in cylinders.

(a) * * *

Kind of gas	Maximum permitted filling density (see Note 12)	Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.34 (a) to (e).
(Change)	*Percent*	
Carbon dioxide, liquefied (see Notes 3, 5, and 15)	68	ICC–3A1800; ICC–3AA1800; ICC–3; ICC–3HT2000.
Carbon dioxide-nitrous oxide mixtures (see Note 15)	68	ICC–3A1800; ICC–3AA1800; ICC–3; ICC–3HT2000.
Liquefied nonflammable gases, liquids other than those classified as flammable, corrosive, or poisonous, and mixtures or solutions thereof, charged with nitrogen, carbon dioxide, or air (see Notes 10 and 15).	(3)	ICC–3A300; ICC–3AA300; ICC–3HT900; ICC–4B300; ICC–4BA300; ICC–4D300; ICC–4DA500.
Nitrous oxide (see Notes 2 and 15)	68	ICC–3A1800; ICC–3AA1800; ICC–3; ICC–3HT2000.

NOTE 15: Specification 3HT (§ 78.44 of this chapter) cylinders are authorized for aircraft use only, for a maximum service life of 12 years, and must be equipped with safety relief devices as required by § 73.34(f). Only a frangible disc safety relief device, without fusible metal backing shall be used with Specification ICC–3HT cylinders and the rated bursting pressure of the disc shall not exceed 90 percent of the minimum required test pressure of the cylinder with which the device is used.

In § 73.314 amend paragraph (a) Table (22 F.R. 4791, July 9, 1957) to read as follows:

§ 73.314 Compressed gases in tank cars.

(a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(Change)		
Difluoroethane	79	ICC–106A500, 106A500X, 110A500–W, Notes 12 and 19.
	84	ICC–105A300–W.

In § 73.315 amend paragraph (a) (1) Table (23 F.R. 2327, April 10, 1958) to read as follows:

§ 73.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
(Add)				
Difluoroethane	79	See Note 7	MC–330	150

Subpart G—Poisonous Articles; Definition and Preparation

In § 73.346 amend paragraph (a) (20) and add paragraph (a) (23) (24 F.R. 906, Feb. 6, 1959) (15 F.R. 8335, Dec. 2, 1950) to read as follows:

§ 73.346 Poisonous liquids not specifically provided for.

(a) * * *

(20) Spec. 5B or 6J (§ 78.82 or § 78.100 of this chapter). Steel barrels or drums having inside spec. 2S (§ 78.35 of this chapter) polyethylene drums. Gross weight restriction indicated by gross weight embossment on steel barrels or drums shall be waived. Authorized only for materials that will not react with polyethylene and result in container failure.

* * * * *

(23) Spec. 42G (§ 78.111 of this chapter). Aluminum drums.

In § 73.370 amend paragraph (c) (1) (21 F.R. 4433, June 3, 1956) to read as follows:

§ 73.370 Cyanides, or cyanide mixtures, except cyanide of calcium and mixtures thereof.

* * * * *

(c) * * *

(1) As prescribed in paragraph (a) (2), (3), (4), (6), (9), (10) or (11) of this section.

PART 74—CARRIERS BY RAIL FREIGHT

In § 74.506 amend the introductory text of paragraph (a) (18 F.R. 804, Feb. 7, 1953) to read as follows:

§ 74.506 Improperly packed or damaged shipments in transportation.

(a) For the protection of the public against fire, explosion, or other, or further hazard with respect to shipments of explosives or other dangerous articles offered for transportation or in transit by any carrier by railroad, such carrier shall make immediate report to the Bureau of Explosives, 63 Vesey Street, New York 7, New York, for handling any of the following emergency matters coming to their attention:

PART 78—SHIPPING CONTAINER SPECIFICATIONS

Subpart A—Specifications for Carboys, Jugs in Tubs, and Rubber Drums

In § 78.10–3 amend paragraph (b) (17 F.R. 7283, Aug. 9, 1952) to read as follows:

§ 78.10 Specification 1F; polyethylene carboys in plywood drums.

§ 78.10–3 Polyethylene carboys.

* * * * *

(b) Closing device shall be of material resistant to the lading and adequate to prevent leakage. Opening for closure shall not be over 3½ inches in diameter.

In § 78.11–3 amend paragraphs (a), (b), (c), and (d) (18 F.R. 805, Feb. 7, 1953) (19 F.R. 1281, March 6, 1954) (23 F.R. 7650, Oct. 3, 1958) to read as follows:

§ 78.11 Specification 1G; polyethylene carboys in wooden or glued plywood boxes.

§ 78.11–3 Polyethylene carboys.

(a) Carboys shall be made of polyethylene with no plasticisers or additives and have a maximum melt index value of 2.5 grams per 10 minutes as deter-

mined in accordance with method acceptable to the Bureau of Explosives. Carboys must have a minimum weight and wall thickness in accordance with the following table:

Marked capacity not over (gallons)	Minimum wall thickness (inch)	Minimum weight of containers (pounds)
5	1/16	3
6½	1/16	4
13	1/16	8

(b) Closing device shall be of material resistant to the lading and adequate to prevent leakage, and opening for closure shall not be over 3½ inches in diameter.

(c) Polyethylene carboy, as manufactured and filled to marked capacity with a material which remains in a liquid form, shall be capable of withstanding a 4-foot drop without leakage, after prior conditioning so that contents will be 0° F. or colder, onto solid concrete on any portion of the carboy.

(d) Polyethylene carboys must fit snugly in outside container.

In § 78.13–3 amend paragraph (b) (21 F.R. 675, Jan. 31, 1956) to read as follows:

§ 78.13 Specification 1H; polyethylene carboys in low carbon steel or other equally efficient metal crates.

§ 78.13–3 Polyethylene carboys.

* * * * *

(b) Closing device shall be of material resistant to the lading and adequate to prevent leakage. Opening for closure shall not be over 3½ inches in diameter.

Subpart B—Specifications for Inside Containers, and Linings

In § 78.21–3 amend paragraph (b) (23 F.R. 2329, April 10, 1958) to read as follows:

§ 78.21 Specification 2T, polyethylene containers.

§ 78.21–3 Polyethylene containers.

* * * * *

(b) Closing device shall be of material resistant to the lading and adequate to prevent leakage. Opening for closure shall not be over 3½ inches in diameter.

Subpart C—Specifications for Cylinders

In § 78.37–5 amend paragraph (a) Note 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.37 Specification 3AA; seamless steel cylinders, made of definitely prescribed steels.

§ 78.37–5 Authorized steel.

(a) * * *

NOTE 1: A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

Add § 78.44 (15 F.R. 8399, Dec. 2, 1950) to read as follows:

§ 78.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

§ 78.44–1 Compliance.

(a) Required in all details.

§ 78.44–2 Type, size and service pressure.

(a) *Type and size.* Seamless; not over 150 pounds water capacity (nominal).

(b) *Service pressure.*[1] At least 900 pounds per square inch.

§ 78.44–3 Inspection by whom and where.

(a) By competent and disinterested inspector acceptable to the Bureau of Explosives; chemical analyses and tests, as specified, to be made within limits of the United States.

§ 78.44–4 Duties of inspector.

(a) Inspect all material and reject any not complying with requirements; for cylinders made by billet-piercing process, billets to be inspected after nick and cold break.

(b) Verify chemical analysis of each heat of material by analysis or by obtaining certified analysis: *Provided,* That a certificate from the manufacturer thereof, giving sufficient data to indicate compliance with requirements, is acceptable when verified by check analyses of samples taken from one cylinder out of each lot of 200 or less.

(c) Verify compliance of cylinders with all requirements including markings; inspect inside before closing in both ends; verify heat treatment as proper; obtain samples for all tests and check chemical analyses; witness all tests; verify threads by gauge; report volumetric capacity and tare weight (see report form) and minimum thickness of wall noted.

(d) Render complete report (§ 78.44–25) to purchaser, cylinder maker, and the Bureau of Explosives.

§ 78.44–5 Authorized steel.

(a) Open hearth or electric furnace steel of uniform quality. Steel of the following chemical analysis is authorized (see notes 1 and 2):

Designation	AISI 4130 (percent)
Carbon	0.28/0.33.
Manganese	0.40/0.60.
Phosphorus	0.040 maximum.
Sulfur	0.040 maximum.
Silicon	0.20/0.35.
Chromium	0.80/1.10.
Molybdenum	0.15/0.25.

NOTE 1: A heat of steel made under the above specification, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual entitled "Alloy Steel: Semi-finished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded; or provided the variation in chemical analysis is approved by the Bureau of Explosives.

NOTE 2: Grain size 6 or finer according to ASTM Spec. E19–46.

§ 78.44–6 Identification of material.

(a) Required; any suitable method. Steel stamping of heat identifications shall not be made in any area which will eventually become the side wall of the cylinder. Depth of stamping shall not encroach upon the minimum prescribed wall thickness of the cylinder.

§ 78.44–7 Defects.

(a) Material with seams, cracks, laminations, severe inclusions, numerous or severe draw marks, or any other injurious defect not authorized.

§ 78.44–8 Manufacture.

(a) By best appliances and methods; dirt and scale to be removed as necessary to afford proper inspection; no fissure or other defect acceptable that is likely to weaken the finished container appreciably; the general surface finish shall not exceed a roughness of 250 RMS. Individual irregularities such as draw marks, scratches, pits, etc., should be held to a minimum consistent with good high stress pressure vessel manufacturing practices. If the cylinder is not originally free of such defects or does not meet the finish requirements, the surface may be machined or otherwise treated to eliminate these defects. The point of closure of cylinders closed by spinning is not to be less than two times the prescribed wall thickness of the cylindrical shell. Cylinder end contour shall be hemispherical or ellipsoidal with a ratio of major to minor axis not exceeding two to one and with concave side to pressure.

§ 78.44–9 Welding or brazing.

(a) Welding or brazing for any purpose whatsoever is prohibited except as follows:

(1) Welding by spinning is permitted to close the bottom of spun cylinders. Machining or grinding to produce proper surface finish at point of closure is required.

§ 78.44–10 Wall thickness.

(a) Minimum wall thickness for any cylinder shall be 0.050 inch.

(b) Minimum wall thickness shall be such that the wall stress at the minimum

[1] The "service pressure" limits the use of the cylinder. It is shown by marks on cylinder; for example, ICC–3HT2000 indicates the service pressure as 2,000 pounds per square inch.

specified test pressure shall not exceed 75 percent of the minimum tensile strength of the steel as determined from the physical tests required in § 78.44–18 and shall not be over 105,000 psi.

(c) Calculations must be made by the formula:

$$S=\frac{P(1.3D^2+0.4d^2)}{D^2-d^2}$$

where

S = wall stress in pounds per square inch;
P = minimum test pressure prescribed for water jacket test;
D = outside diameter in inches;
d = inside diameter in inches.

(d) Wall thickness of hemispherical bottoms only permitted to 90 percent of minimum wall thickness of cylinder sidewall but shall not be less than 0.050 inch. In all other cases, thickness to be no less than prescribed minimum wall.

§ 78.44–11 Heat treatment.

(a) The completed cylinders must be uniformly and properly heated prior to tests. Heat treatment of the cylinders of the authorized analysis shall be as follows:

(1) All cylinders must be oil quenched except as noted in subparagraph 4 of this paragraph.

(2) The steel temperature on quenching shall be that recommended for the steel analysis, but in no case shall it exceed 1750° F.

(3) The steel shall be tempered at a temperature most suitable for the particular steel analysis but not less than 850° F.

(4) Quenching in a molten salt bath maintained at a temperature of not less than 375° F. is permitted.

§ 78.44–12 Openings in cylinders and connections (valves, fuse plugs, etc.) for those openings.

(a) Threads required to be clean cut, even, without cracks, and to gauge.

(b) Taper threads, when used, to be of length not less than as specified for National Gas Tapered Thread (NGT) as required by American Standard Compressed Gas Cylinder Valve Outlet and Inlet Connections.[1]

(c) Straight threads having at least 6 engaged threads are authorized; to have tight fit and a calculated shear stress of at least 10 times the test pressure of the cylinder; gaskets required, adequate to prevent leakage.

§ 78.44–13 Safety devices and protection for valves, safety devices, and other connections, if applied.

(a) Must be as required by the Interstate Commerce Commission's regulations that apply (see §§ 73.34(f) and 73.301(i) of this chapter).

§ 78.44–14 Hydrostatic test.

(a) By water-jacket, or other suitable method, operated so as to obtain accurate data. Pressure gauge must permit reading to accuracy of 1 percent. Expansion gauge must permit reading of total expansion to accuracy either of 1 percent or 0.1 cubic centimeter.

(b) Pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion. Any internal pressure applied after heat treatment and previous to the official test must not exceed 90 percent of the test pressure. If, due to failure of the test apparatus, the test pressure cannot be maintained, the test may be repeated at a pressure increased by 10 percent or 100 pounds per square inch, whichever is the lower.

(c) Permanent volumetric expansion must not exceed 10 percent of total volumetric expansion at test pressure.

(d) Each cylinder must be tested to at least 5/3 times service pressure.

§ 78.44–15 Cycling tests.

(a) Prior to the initial shipment of any specific cylinder design, cyclic pressurization tests shall have been performed on at least three representative samples without failure as follows:

(1) Pressurization shall be performed hydrostatically between approximately zero psig and the service pressure at a rate not in excess of 10 cycles per minute. Adequate recording instrumentation shall be provided if equipment is to be left unattended for periods of time.

(b) Tests prescribed in paragraph (a)(1) of this section shall be repeated on one random sample out of each lot of cylinders. Cylinder may then be subjected to burst test.

(c) A lot is defined as a group of cylinders fabricated from the same heat of steel, manufactured by the same process and heat treated in the same equipment under the same conditions of time, temperature, and atmosphere, and shall not exceed a quantity of 200 cylinders.

(d) All cylinders used in cycling tests must be destroyed.

§ 78.44–16 Burst test.

(a) One cylinder taken at random out of each lot of cylinders shall be hydrostatically tested to destruction.

§ 78.44–17 Flattening test.

(a) Between knife edges, wedge shaped, 60° angle, rounded to ½ inch radius, test one cylinder taken at random out of each lot of cylinders after hydrostatic test. Axis of cylinder must be at 90° angle to knife edges.

§ 78.44–18 Physical tests.

(a) To determine yield strength, tensile strength, elongation, and reduction of area of material. Required on 2 specimens cut from 1 cylinder taken at random out of each lot of cylinders.

(b) Specimens must be: Gauge length at least 24 times thickness with width not over six times thickness. The specimen, exclusive of grip ends, must not be flattened. Grip ends may be flattened to within one inch of each end of the reduced section. When size of cylinder does not permit securing straight specimens, the specimens may be taken in any location or direction and may be straightened or flattened cold, by pressure only, not by blows; when specimens are so taken and prepared, the inspector's report must show in connection with record of physical tests detailed information in regard to such specimens. Heating of specimen for any purpose is not authorized.

(c) The yield strength in tension shall be the stress corresponding to a permanent strain of 0.2 percent of the gauge length.

(1) The yield strength shall be determined by either the "offset" method or the "extension under load" method as prescribed in ASTM standard E8–54T.

(2) In using the "extension under load" method, the total strain (or "extension under load") corresponding to the stress at which the 0.2 percent permanent strain occurs may be determined with sufficient accuracy by calculating the elastic extension of the gauge length under appropriate load and adding thereto 0.2 percent of the gauge length Elastic extension calculations shall be based on an elastic modulus of 30,000,000. In the event of controversy, the entire stress-strain diagram shall be plotted and the yield strength determined from the 0.2 percent offset.

(3) For the purpose of strain measurement, the initial strain shall be set while the specimen is under a stress of 12,000 pounds per square inch, the strain indicator reading being set at the calculated corresponding strain.

(4) Cross-head speed of the testing machine shall not exceed ⅛ inch per minute during yield strength determination.

§ 78.44–19 Magnetic particle inspection.

(a) Inspection shall be performed on inside of container before closing and externally on the finished container after heat treatment. Evidence of discontinuities, which in the opinion of a qualified inspector may appreciably weaken or decrease the durability of the cylinder, shall be cause for rejection.

§ 78.44–20 Leakage test.

(a) All spun cylinders and plugged cylinders (see Notes 1 and 2) must be tested for leakage by dry gas or dry air pressure after the bottom has been cleaned and is free from all moisture. Pressure, approximately the same as but no less than service pressure, must be applied to one side of the finished bottom over an area of at least 1/16 of the total area of the bottom but not less than ¾ inch in diameter, including the closure, for at least one minute, during which time the other side of the bottom exposed to pressure must be covered with water and closely examined for indications of leakage. Leakers must be rejected (see Notes 1, 2, and 3 and § 78.44–22).

NOTE 1: A spun cylinder is one in which an end closure in the finished cylinder has been welded by the spinning process.

NOTE 2: A plugged cylinder is one in which a permanent closure in the bottom of a finished cylinder has been effected by a plug.

NOTE 3: As a safety precaution, if the manufacturer elects to make this test before the hydrostatic test, he should design his apparatus so that the pressure is applied to the smallest area practicable, around the point of closure, and so as to use the smallest possible volume of air or gas.

[1] Available for a nominal charge from the American Standards Association, 70 East 45th Street, New York 17, New York, and the Compressed Gas Association, Inc., 11 West 42d Street, New York 36, New York.

§ 78.44–21 Acceptable results of tests.

(a) Flattening required without cracking to ten times the wall thickness of the cylinder.

(b) Physical tests:

(1) Elongation at least 6 percent in gauge length of 24 times wall thickness.

(2) Tensile strength shall not exceed 160,000 pounds per square inch.

(c) Burst pressure shall be at least 4/3 times the test pressure.

(d) Cycling—at least 10,000 pressurizations.

§ 78.44–22 Rejected cylinders.

(a) Reheat treatment authorized; subsequent thereto, acceptable cylinders must pass all prescribed tests. Repair by welding or spinning is not authorized.

§ 78.44–23 Marking.

(a) Cylinders shall be marked by low stress type steel stamping in an area and to a depth which will insure that the wall thickness measured from the root of the stamping to the interior surface is equal to or greater than the minimum prescribed wall thickness. Stamping must be permanent and legible. Stamping on side wall not authorized. The following markings shall appear:

(1) ICC–3HT followed by the service pressure (for example, ICC–3HT1800, etc.).

(2) A serial number and an identifying symbol (letters); location[1] of number to be just below the ICC mark; location of symbol to be just below the number. The symbol and numbers must be those of purchaser, user, or maker. The symbol must be registered with the Bureau of Explosives; duplications unauthorized.

Example: ICC–3HT1800
1234
XY

(3) Inspector's official mark near serial number; date of test such as 5–59 for May 1959, so placed that dates of subsequent tests can be easily added; and word "SPUN" or "PLUG" near ICC mark when an end closure in the finished cylinder has been welded by the spinning process, or affected by plugging.

(4) Elastic expansion in cubic centimeters to the nearest 1 percent near the date of test.

§ 78.44–24 Name plates.

(a) Authorized, provided that they can be permanently and securely attached to the cylinder. Attachment by either brazing or welding is not permitted. Attachment by soldering is permitted provided steel temperature does not exceed 500° F.

§ 78.44–25 Inspector's report.

(a) Required to be clear, legible, and in the following form:

[1] Symbol in front of or following the number with ample space between is also authorized. Other variation in location authorized only when necessitated by lack of space.

(Place) _____
(Date) _____

Gas Cylinders

Manufactured for _____ Company
Location at _____
Manufactured by _____ Company
Location at _____
Consigned to _____ Company
Location at _____
Quantity _____
Size _____ inches outside diameter by _____ inches long
Marks stamped into the shoulder of the cylinder are:
Specification ICC _____
Serial numbers _____ to _____ inclusive
Inspector's mark _____
Identifying symbol (registered) _____
Test date _____
Tare weights (yes or no) _____
Other marks (if any) _____
These cylinders were made by process of _____
_____
The cylinders were heat treated by the process of _____
The material used was identified by the following _____
(Heat-purchased order)
numbers _____

The material used was verified as to chemical analysis and record thereof is attached hereto. The heat numbers _____ marked on the material. (were—were not)

All material, such as plates, billets and seamless tubing, was inspected and each cylinder was inspected both before and after closing in the ends; all that was accepted was found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the cylinder. The processes of manufacture and heat treatment of cylinders were supervised and found to be efficient and satisfactory.

The cylinder walls were measured and the minimum thickness noted was _____ inch. The outside diameter was determined by a close approximation to be _____ inches. The wall stress was calculated to be _____ pounds per square inch under an internal pressure of _____ pounds per square inch.

Hydrostatic tests, flattening tests, tensile tests of material, and other tests, as prescribed in specification No. ICC–3HT, were made in the presence of the inspector and all material and cylinders accepted were found to be in compliance with the requirements of that specification. Records thereof are attached hereto.

I hereby certify that all of these cylinders proved satisfactory in every way and comply with the requirements of Interstate Commerce Commission specification No. 3HT except as follows:

Exceptions: _____
_____
_____

(Signed) _____
(Inspector)

(Place) _____
(Date) _____

RECORD OF CHEMICAL ANALYSIS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive
Size _____ inches outside diameter by _____ inches long
Made by _____ Company
For _____ Company

NOTE: Any omission of analyses by heats, if authorized, must be accounted for by notation hereon reading "The prescribed certificate of the manufacturer of material has been secured, found satisfactory, and placed on file," or by attaching a copy of the certificate.

Test No.	Heat No.	Check analysis No.	Cylinders represented (Serial Nos.)	Chemical analysis								
				C	P	S	Si	Mn	Ni	Cr	Mo	Zr

The analyses were made by _____

(Signed) _____
(Place) _____
(Date) _____

RECORD OF PHYSICAL TESTS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long.
Made by _____ Company
For _____ Company

Test No.	Cylinders represented by test (Serial Nos.)	Yield strength at 0.2 percent offset (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (percent in 8 inches)	Reduction of area (percent)	Flattening test

(Signed) _____
(Place) _____
(Date) _____

RECORD OF HYDROSTATIC TESTS ON CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long.
Made by _____ Company
For _____ Company

Serial Nos. of cylinders tested arranged numerically	Actual test pressure (pounds per square inch)	Total expansion (cubic centimeters)[1]	Permanent expansion (cubic centimeters)[1]	Percent ratio of permanent expansion to total expansion[1]	Tare weight (pounds)[2]	Volumetric capacity

[1] If the tests are made by a method involving the measurement of the amount of liquid forced into the cylinder by the test pressure, then the basic data, on which the calculations are made, such as the pump factors, temperature of liquid, coefficient of compressibility of liquid, etc., must also be given.

[2] Do not include removable cap but state whether with or without valve. These weights must be accurate to a tolerance of 1 percent.

(Signed)_____

In § 78.51–20 amend paragraph (a) Table Footnote 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.51 Specification 4BA; welded or brazed steel cylinders made of definitely prescribed steels.

§ 78.51–20 Authorized steel.

(a) * * *

[1] A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

In § 78.56–20 amend paragraph (a) Table Footnote 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.56 Specification 4AA480; welded steel cylinders made of definitely prescribed steels.

§ 78.56–20 Authorized steel.

(a) * * *

[1] A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

In § 78.58–5 amend paragraph (a) Note 1 (21 F.R. 7608, Oct. 4, 1956) to read as follows:

§ 78.58 Specification 4DA; inside containers, welded steel for aircraft use.

§ 78.58–5 Steel.

(a) * * *

NOTE 1: A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

In § 78.60–4 amend paragraph (a) Table Footnote 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 78.60–4 Authorized steel.

(a) * * *

[1] A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks, and Boxes

In § 78.83–5 amend paragraph (b) (15 F.R. 8435, Dec. 2, 1950) to read as follows:

§ 78.83 Specification 5C; steel barrels or drums.

§ 78.83–5 Seams.

* * * * *

(b) Head and chime seams welded.

In § 78.107–6 amend paragraph (b) (15 F.R. 8446, Dec. 2, 1950) to read as follows:

§ 78.107 Specification 42B; aluminum drums.

§ 78.107–6 Parts and dimensions.

* * * * *

(b) Rolling hoops must be firmly secured in place and not over 19 inches apart; beading under hoops not permitted. If welding is employed, the welding must be continuous on each edge of hoop.

In § 78.108–6 amend paragraph (b) (15 F.R. 8446, Dec. 2, 1950) to read as follows:

§ 78.108 Specification 42C; aluminum barrels or drums.

§ 78.108–6 Parts and dimensions.

(b) Rolling hoops must be firmly secured in place and not over 19 inches apart; beading under hoops not permitted. If welding is employed, the welding must be continuous on each edge of hoop.

In § 78.109–6 amend paragraph (b) (15 F.R. 8447, Dec. 2, 1950) to read as follows:

§ 78.109 Specification 42D; aluminum drums.

§ 78.109–6 Parts and dimensions.

* * * * *

(b) Rolling hoops must be firmly secured in place and not over 19 inches apart; beading under hoops not permitted. If welding is employed, the welding must be continuous on each edge of hoop.

Add § 78.111 (15 F.R. 8447, Dec. 2, 1950) to read as follows:

§ 78.111 Specification 42G; aluminum drums.

§ 78.111–1 Compliance.

(a) Required in all details.

§ 78.111–2 Rated capacity.

(a) Rated capacity as marked, see § 78.111–8(a)(3), 55 gallons; actual capacity shall be rated capacity plus at least 2 percent.

§ 78.111–3 Composition.

(a) Body and heads or drawn shells of aluminum alloy 5052, or an aluminum base alloy of equivalent corrosion resistance and physical properties.

§ 78.111–4 Outage.

(a) Two percent of rated capacity, plus a maximum tolerance of 2 quarts.

§ 78.111–5 Seams.

(a) Welded, including attachment of flanges for closures and other devices. Circumferential seam at least 3 inches from top of chime; chime seams not permitted.

§ 78.111–6 Parts and dimensions.

(a) Shall be a minimum of 10 Brown and Sharpe gauge (0.102 inch).

(b) Rolled or swedged-in rolling hoops required.

(c) Footrings of suitable strength required and must be continuously welded around the outside periphery to the drum shell.

§ 78.111–7 Closures.

(a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required.

(b) Threaded plugs, or caps, and flanges must be close fitting with gasket surfaces which bear squarely on each other when without gasket; they must have not over 12 threads per inch, with at least 3 threads engaged when gasket is in place; two 5/8-inch drainage holes are authorized in flange.

§ 78.111–8 Marking.

(a) Marking on each container on top head, by stamping with pressure dies, by embossing with raised marks, or plate attached by welding, as follows:

(1) ICC–42G. This mark shall be understood to certify that the container complies with all specification requirements.

(2) Name or symbol (letters) of maker; this must be registered with the Bureau of Explosives and located just above, below, or following the mark specified in subparagraph (1) of this paragraph.

(3) Gauge of metal, Brown and Sharpe, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7–30–50).

§ 78.111–9 Size of marking.

(a) Size of marking (minimum): ¾-inch high.

§ 78.111–10 Type tests.

(a) Samples, taken at random and closed as for use, shall withstand prescribed tests without leakage. Tests to be made of each type and size by each company starting production and to be repeated every four months. Samples last tested to be retained until further tests are made. The type tests are as follows:

(1) Test by dropping, filled with water to 98 percent capacity, from height of 4 feet onto solid concrete so as to strike diagonally on chime, or when without chime seam, to strike on other circumferential seam; also additional tests on any other parts which might be considered weaker than the chime.

(2) Hydrostatic pressure test of 40 pounds per square inch sustained for 5 minutes.

§ 78.111–11 Leakage test.

(a) Each container shall be tested, unsupported, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Leaking or damaged drums shall be rejected or repaired and retested.

§ 78.111–12 Defective containers.

(a) Leaks and other defects shall be repaired by welding, using welding material of the same composition as originally used by the manufacturer of the drum or other approved aluminum base alloy of equal corrosion and strength qualities.

In § 78.131–7 add paragraph (c) (20 F.R. 4419, June 23, 1955) to read as follows:

§ 78.131 Specification 37A; steel drums.

§ 78.131–7 Closures.

* * * * *

(c) Closures or fittings in the removable head of any type capable of withstanding test prescribed by § 78.131–11 are authorized.

Subpart H—Specifications for Portable Tanks

Add § 78.246 (15 F.R. 8484, Dec. 2, 1950) to read as follows:

§ 78.246 Specification 52; aluminum portable tanks.

§ 78.246–1 Compliance.

(a) Required in all details.

§ 78.246–2 Composition and capacity.

(a) Tanks shall be constructed of aluminum base alloy at least 96 percent pure, or other aluminum base alloys of equivalent strength and physical properties suitable for use with the commodity to be transported therein and having a capacity not over 400 gallons.

§ 78.246–3 Construction.

(a) Tanks shall be of all welded fabrication. Welding shall be performed in a workmanlike manner using suitable welding materials. Tanks shall be formed of material at least 0.250 inch thick; material shall comply with the requirements of § 78.246–2. Cubical containers shall have corners reinforced with suitable pads or legs efficiently welded thereto.

§ 78.246–4 Openings and closures.

(a) Tanks shall have one fill opening with properly gasketed positive type closure and may have one threaded flange opening not over 2.3 inches in diameter which must be provided with secure gasketed closure plug. Bottom discharge opening not over 3 inches in diameter authorized.

§ 78.246–5 Tank mountings.

(a) Tanks shall be designed and fabricated with mountings to provide a secure base in transit. "Skids" or similar devices shall be deemed to comply with this requirement.

(b) All tank mountings such as skids, fastenings, brackets, cradles, lifting lugs, etc., intended to carry loadings shall be permanently secured to tanks in accordance with the requirements under which the tanks are fabricated and shall be designed with a factor of safety of four, and built to withstand loadings in any direction equal to two times the weight of the tanks and attachments when filled with water.

§ 78.246–6 Tests.

(a) Each tank shall be tested by introduction of at least 2 pounds sustained air pressure during which time all welded areas shall be examined for leakge by coating entire welded seam area with soap suds. Areas that show leakage in this test may be repaired by welding and must be retested to determine efficiency.

§ 78.246–7 Marking.

(a) Marking on each container in an unobstructed area, by embossing or diestamping on the container, or on a metal plate securely attached by welding, in letters and figures at least ⅜ inch in height, as follows:

(1) ICC–52 * * * (stars to be replaced by rated gallonage capacity). These marks shall be understood to certify that the container complies with all specification requirements.

(2) Name or symbol (letters) of maker or user assuming responsibility with specification requirements. Symbol letters must be registered with the Bureau of Explosives.

APPENDIX

Section and Reason for Amendment

72.5(a) commodity list: Provides amendments and additions to keep the Commodity List current.

73.22(h): To provide for the use of unmarked drums complying with spec. 42G manufactured prior to the effective date of the specification.

73.28(a): Requires the repair of used containers to conform with the materials and construction requirements of the respective specifications for new containers.

73.34(j), (k) table, (1), (14): To provide for the retesting of new spec. ICC–3HT cylinders.

73.53(h)(1) Note 4: To show the change of address of the Bureau of Explosives.

73.125(a)(6): To authorize spec. 12B fiberboard box with inside polyethylene bottles for alcohol.

73.128(a)(3): To authorize new spec. 52 aluminum portable tanks for paints and related materials.

73.132(a)(2): To authorize new spec. 52 aluminum portable tanks for liquid cements.

73.150(a): For clarification and to state more fully the method used in determining the classification of materials under the definition of a flammable solid.

73.153(b): Eliminates unnecessary reference to § 73.244(a).

73.153(c)(69): Clarifies that decaborane is not exempt from any requirements of the regulations.

73.195(a)(4): To properly identify spec. 12B as a fiberboard box.

73.206(c)(1): To specify outage of spec. 105A300–W tank cars containing sodium, metallic.

73.229(b)(5): Provides certain exemptions for chlorate and borate mixtures when packed in spec. 2D paper bags inside a strong fiberboard box.

73.236, entire section: Provides specification packaging requirements for shipping decaborane.

73.240(a): For classification and to state more fully the method used in determining the classification of materials under the definition of corrosive liquids.

73.264(a)(4): To authorize spec. 12A fiberboard boxes containing not more than 4 polyethylene bottles for 52% hydrofluoric acid.

73.265(d)(4): To remove the 24 gauge requirement for spec. 37P drums of one gallon capacity for hydrofluosilicic acid.

73.266(c)(9): Authorizes the use of spec. 12A-fiberboard boxes with inside glass or polyethylene bottles for hydrogen peroxide not exceeding 37% by weight.

73.307(a)(1), (2): To authorize the use of new specification ICC–3HT cylinders for certain nonliquefied gases.

73.308(a) table: Authorizes new specification ICC–3HT cylinders for certain nonflammable gases.

73.308(a) note 15: Specifies a certain type of safety device to be used on new spec. 3HT cylinders.

73.314(a) table: Authorizes spec. 105A300–W tank cars for difluoroethane.

73.315(a)(1) table: Authorizes spec. MC–330 steel cargo tanks for difluoroethane.

73.346(a)(20): Authorizes spec. 5B steel drums with inside spec. 2S polyethylene drum for class B poisonous liquids, n.o.s.

73.346(a)(23): Authorizes new spec. 42G aluminum drums for class B poisonous liquids, n.o.s.

73.370(c)(1): Deletes erroneous reference to paragraph (a)(8) of same section.

74.506(a): To show the change of address of the Bureau of Explosives.

78.10–3(b): Specifies an opening of not over 3½ inches in diameter for spec. 1F polyethylene carboys.

78.11–3 (a), (b), (c), (d): To substitute current construction specifications for those determined obsolete by standard manufacturing processes.

78.13–3(b): Specifies an opening of not over 3½ inches in diameter for spec. 1H polyethylene carboys.

78.21–3(b): Specifies an opening of not over 3–½ inches in diameter for spec. 2T polyethylene containers.

78.37–5(a) Note 1: To clarify that a variation in chemical analysis for a heat of steel used for spec. 3AA cylinders is permissible when approved by the Bureau of Explosives.

78.44, Entire section: To provide for the construction of new specification 3HT cylinders.
78.51-20(a) Note 1: Reason for section 78.37-5 applies also to spec. 4BA cylinders.
78.56-20(a) Note 1: Reason for section 78.37-5 applies also to spec. 4BA cylinders.
78.58-5(a) Note 1: Reason for section 78.37-5 applies also to spec. 4DA cylinders.
78.60-4(a) Note 1: Reason for section 78.37-5 applies also to spec. 8AL cylinders.
78.83-5(b): Prohibits spec. 5C drums from having double-seamed head and chime.
78.107-6(b): Prohibits the method of tack-welding rolling hoops on spec. 42B aluminum drums.
78.108-6(b): Reason for section 78.107-6(b) applies also to spec. 42C aluminum drums.
78.109-6(b): Reason for section 78.107-6(b) applies also to spec. 42D aluminum drums.
78.111, Entire section: Provides for the construction of new spec. 42G aluminum drums.
78.131-7(c): Clarifies that removable heads of spec. 37A steel drums may have openings.
78.246, Entire section: Provides for the construction of new spec. 52 aluminum portable tanks.

[F.R. Doc. 50-9149; Filed, Oct. 29, 1959; 8:45 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3]

PIG IRON FROM SPAIN

Determination of No Sales at Less Than Fair Value

OCTOBER 23, 1959.

A complaint was received that pig iron from Spain was being sold to the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that pig iron from Spain is not being, nor is likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. The pig iron from Spain is purchased outright by the United States importers in arms-length transactions. The quantity of pig iron, the same as or similar to the pig iron sold to the United States, sold for home consumption was adequate to form a basis for a fair value comparison. It was accordingly determined that the proper fair value comparison is between purchase price and home market price.

It was further determined that purchase price was not less than home market price, both prices being on an f.o.b. factory basis.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 59-9195; Filed, Oct. 29, 1959; 8:47 a.m.]

[Treasury Dept. Order 167-38; CGFR 59-43]

COMMANDANT, U.S. COAST GUARD

Delegation of Functions

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 and by 14 U.S.C. 631, there are transferred to the Commandant, U.S. Coast Guard, the functions of the Secretary of the Treasury under Public Law 86-244, approved September 9, 1959 (R.S. 4488, as amended; 73 Stat. 475, 476; 46 U.S.C. 481), with respect to lifesaving equipment, firefighting equipment, muster lists, ground tackle, hawsers, bilge systems aboard vessels, etc.

The Commandant may make provision for the performance by subordinates in the Coast Guard of any of the functions transferred except the functions of prescribing rules and regulations.

Dated: October 26, 1959.

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F. R. Doc. 59-9196; Filed, Oct. 29, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

EXTRA LONG STAPLE COTTON MARKETING QUOTA

Notice of Referendum for 1960 Crop

The Secretary of Agriculture has duly proclaimed, pursuant to the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "act"), a national marketing quota for the crop of extra long staple cotton produced in 1960 (24 F.R. 8407).

A referendum of the farmers who were engaged in the production of extra long staple cotton in the calendar year 1959 will be held on December 15, 1959, pursuant to the provisions of section 343 of the act and the Regulations Governing the Holding of Referenda on Marketing Quotas (23 F.R. 3432), as amended, to determine whether such farmers are in favor of or opposed to the 1960 quota. If two-thirds or more of the cotton farmers voting in the extra long staple cotton referendum favor the quota, such quota will be in effect for the 1960 extra long staple cotton crop. If more than one-third of the cotton farmers voting in such referendum oppose the quota, the quota will not be in effect for the 1960 extra long staple cotton crop; however, farm allotments established for such crop pursuant to section 344 of the act will remain in effect and compliance with such allotments will be a condition of eligibility of producers for price support under the Agricultural Act of 1949, as amended.

Notice of the proposed holding of a referendum for the 1960 crop of extra long staple cotton was published in the FEDERAL REGISTER of October 1, 1959 (24 F.R. 7900) pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) and the data, views, and recommendations which were submitted in response to such notice have been duly considered. In order that arrangements for holding the referendum may be made in an orderly manner and as much advance notice as possible be given of the date of the referendum, it is essential that this notice be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and this notice shall be effective upon filing of this document with the Director, Office of the Federal Register.

Issued at Washington, D.C., this 26th day of October 1959.

CLARENCE D. PALMBY,
Acting Administrator,
Commodity Stabilization Service.

[F.R. Doc. 59-9212; Filed, Oct. 29, 1959; 8:49 a.m.]

UPLAND COTTON MARKETING QUOTA

Notice of Referendum for 1960 Crop

The Secretary of Agriculture has duly proclaimed, pursuant to the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "act"), a national marketing quota for the crop of upland cotton produced in 1960 (24 F.R. 8407).

A referendum of the farmers who were engaged in the production of upland cotton in the calendar year 1959 will be held on December 15, 1959, pursuant to the provisions of section 343 of the act and the Regulations Governing the Holding of Referenda on Marketing Quotas (23 F.R. 3432), as amended, to determine whether such farmers are in favor of or opposed to the 1960 quota. If two-thirds or more of the cotton farmers voting in the upland cotton referendum favor the quota, such quota will be in effect for the 1960 upland cotton crop. If more than one-third of the cotton farmers voting in such referendum oppose the quota, the quota will not be in effect for the 1960 upland cotton crop and the Choice (B) farm allotment may not be elected by farm operators; however, Choice (A) farm allotments established for such crop pursuant to section 344 of the act will remain in effect and compliance with such Choice (A) farm allotments will be a condition of eligibility of producers for price support at 50 percent of the parity price of cotton.

Notice of the proposed holding of a referendum for the 1960 crop of upland cotton was published in the FEDERAL REGISTER of September 12, 1959 (24 F.R. 7382) pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) and the data, views, and recommendations which were submitted in response to such notice have been

duly considered. In order that arrangements for holding the referendum may be made in an orderly manner and as much advance notice as possible be given of the date of the referendum, it is essential that this notice be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and this notice shall be effective upon filing of this document with the Director, Office of the Federal Register.

Issued at Washington, D.C., this 26th day of October 1959.

CLARENCE D. PALMBY,
Acting Administrator,
Commodity Stabilization Service.

[F.R Doc. 59-9213; Filed, Oct. 29, 1959; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification 544]

CALIFORNIA

Small Tract Opening; Public Sale Followed by Continuing Sale of Unsold Tracts

OCTOBER 23, 1959.

An order of the Bureau of Reclamation dated April 1, 1954, revoked a Departmental Order of June 11, 1942, so far as that order reserved the following described lands in the First Form for reclamation purposes in connection with the Central Valley Reclamation Project:

MOUNT DIABLO MERIDIAN

T. 31 N., R. 5 W.,
Section 16: SE¼.

Containing approximately 160 acres of public domain.

The lands are located 3 miles southwest of Redding, Shasta County, California, and may be reached by secondary oiled and dirt roads. There is an existing Central Valley Project, Bureau of Reclamation Transmission Line right-of-way running parallel to the eastern edge of the tract. The topography is gently undulating. There is a small wet-weather creek which traverses the tract in a southeasterly direction. The soil is a red clay revealing numerous rocky outcroppings and which supports a mixed stand of open grown yellow and digger pine, and manzanita brush with several annual grasses for an understory. There is no evidence of minerals, either metallic or non-metallic. Culinary water may be obtained by digging shallow wells. Schools, stores, and other public facilities are available in the city of Redding, population about 17,000.

The State of California has waived its rights of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851-852) and the regulations in 43 CFR.

1. Pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management, under Part II, Document 4, California State Office, dated November 19, 1954 (19 F.R. 7697), I hereby open the following described lands, which were classified for small tract purposes by Classification Order No. 544, dated May 6, 1958 (23 F.R. 3276-3277), to public sale under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 628a) as amended:

MOUNT DIABLO MERIDIAN

T. 31 N., R. 5 W.,
Section 16: Tracts described in paragraph 2 of this order.

Containing 125 acres.

2. The tracts are described by aliquot parts of a subdivision and are designated, for reference purposes, as tracts 1 through 35. They vary in size from 2.5 to 5.0 acres. These tracts will be subject to all existing rights-of-way, and to rights-of-way for roads and public utilities as described. Such rights-of-way may be utilized by the Federal Government, or the State, or the county in which the tract is located, or by an agency thereof. Patent will reserve all minerals to the United States.

SE¼ Section 16, T. 31 N., R. 5 W., M.D.M.

Tract No.	Acreage	Description of tracts	Location of rights-of-way easements	Appraisal
	Acres			
1	5	W½NE¼NE¼SE¼ [1]	None	$350
2	5	E½NW¼NE¼SE¼	33' along west and south	350
3	5	W½NW¼NE¼SE¼	33' along east and south	400
4	5	E½NE¼NW¼SE¼	33' along south side	450
5	5	W½NE¼NW¼SE¼	33' along west and south	450
6	2½	E½E½NW¼NW¼SE¼	33' along east and south	250
7	2½	W½E½NW¼NW¼SE¼	33' along south side	250
8	2½	E½W½NW¼NW¼SE¼	do	250
9	2½	W½W½NW¼NW¼SE¼	do	250
10	5	W½SW¼NW¼SE¼	33' along north and south	375
11	5	E½SW¼NW¼SE¼	do	500
12	2½	W½W½SE¼NW¼SE¼	do	300
13	2½	E½W½SE¼NW¼SE¼	do	325
14	2½	W½W½SW¼NW¼SE¼	do	325
15	2½	E½W½SW¼NE¼SE¼	do	325
16	2½	NW¼SE¼NE¼SE¼ [1]	33' along west side	250
17	2½	SW¼SE¼NE¼SE¼ [1]	do	250
18	2½	NW¼NE¼NE¼SE¼ [1]	do	275
19	2½	S½N½NW¼SE¼SE¼	33' along east side	325
20	5	E½NE¼SW¼SE¼	33' along north side	425
21	5	W½NE¼SW¼SE¼	do	425
22	5	E½NW¼SW¼SE¼	do	375
23	5	W½NW¼SW¼SE¼	do	375
24	2½	N½S½NW¼SE¼SE¼	33' along east side	325
25	2½	S½S½NW¼SE¼SE¼	do	325
26	2½	SW¼NE¼NE¼SE¼ [1]	33' along west side	275
27	2½	NW¼SE¼SE¼SE¼ [1]	33' along west and south	275
28	2½	N½N½SW¼SE¼SE¼	33' along east side	325
29	2½	S½N½SW¼SE¼SE¼	do	325
30	2½	N½S½SW¼SE¼SE¼	do	325
31	2½	S½S½SW¼SE¼SE¼	33' along east and south	325
32	5	E½SE¼SW¼SE¼	33' along south side	375
33	5	W½SE¼SW¼SE¼	do	375
34	5	E½SW¼SW¼SE¼	do	375
35	5	W½SW¼SW¼SE¼	do	375

[1] Small portion of the eastern edge of these tracts is subject to Bureau of Reclamation Transmission Line Right-of-Way.

3. Persons who have previously acquired a tract under the Small Tract Act are not qualified to purchase a tract at the sale unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

4. The above described tracts will be sold at public auction to the general public at a public sale at the Land Office, Bureau of Land Management, Room 1000, California Fruit Building, Fourth and J Streets, Sacramento, California at 10:00 a.m. on January 21, 1960. If all the tracts are not sold by 3:00 p.m. on that day, the sale will be adjourned until 10:00 a.m. on the following Thursday for resumption for another one-hour period and for adjournment at 11:00 a.m. to 10:00 a.m., on the succeeding Thursday for additional one-hour periods until all tracts are sold or until the sale is otherwise terminated. Bids may be made personally by an individual or his agent at the sale or by mail. Bids sent by mail will be considered at a sale session only if received at the Sacramento Land Office prior to 10:00 a.m. of the day on which that session is held. At each sale session, those tracts will be offered for which timely filed sealed bids have been received or for which nominations are made by oral bidders present at the sale, to the extent that time permits their offer. Late filed sealed bids and sealed bids not reached for consideration at one session will be held for consideration at succeeding scheduled sessions.

No bid will be accepted if it is less than the appraised price of the tract. (See paragraph 2 of this order for the appraised values.)

5. Each sealed bid must clearly show: (a) The full name and mailing address of the bidder; (b) Classification Order No. 544; (c) the legal description of the tract for which the bid is made, described in accordance with paragraph 2 of this order. Each bid must be accompanied by the full amount of the bid in the form of a certified or cashier's check, post office money order, or bank draft made payable to the Bureau of Land Management. All unsuccessful bids will be promptly returned after the sale. Bids for separate tracts must be enclosed in separate envelopes but payment need only accompany the highest bid, providing all other bids designate the envelope containing the payment. Each envelope must be addressed to the Manager, Land Office, Bureau of Land Management, California Fruit Building, 10th Floor, 4th and J Streets, Sacramento, California, and carry in the lower left hand

corner of its face the following information and nothing else: (a) "Bid for Small Tract"; (b) "Classification Order No. 544"; (c) the description of the tract for which the bid is made, described in accordance with the paragraph 2 of this order. Sender's name and return address should be shown on the reverse side of the envelope.

6. All valid applications filed prior to May 6, 1958 will be granted preference rights provided for by 43 CFR 257.5(a). Each tract at the 10:00 a.m. sale will be awarded to the highest bidder. No person will be awarded more than one tract, unless he is an agent acting for one or more persons.

7. All inquiries concerning these lands should be addressed to the Manager, Land Office, Bureau of Land Management, 10th Floor, California Fruit Building, 4th and J Streets, Sacramento 14, California.

R. G. SPORLEDER,
Officer-in-Charge, Northern Field Group, Sacramento, California.

[F.R. Doc. 59-9171; Filed, Oct. 29, 1959; 8:45 a.m.]

[Classification 544]

CALIFORNIA

Small Tract Classification; Partial Revocation and Order Providing for Opening of Public Lands

OCTOBER 23, 1959.

1. Effective immediately Federal Register Document 58-3591 appearing on pages 3276-77 of the issue for May 6, 1958, is revoked as to the following described public lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 31 N., R. 5 W.,
Sec. 16: E½NE¼, NE¼NW¼NE¼, S½NW¼NW¼NE¼, S½NW¼NE¼.

Containing 155 acres public domain.

2. The lands included in this restoration are located 3 miles southwest of Redding, Shasta County, California. The topography is rough and rolling to steep with a red clay soil.

3. An order of the Bureau of Reclamation dated April 1, 1954, revoked a departmental order of June 11, 1942, so far as that order reserved these lands for reclamation purposes in connection with the Central Valley Reclamation Project.

4. The State of California has waived its rights of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the Act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851-852), and the regulations in 43 CFR.

5. All valid applications under the nonmineral public land laws presented prior to 10:00 a.m., on November 28, 1959, will be considered as simultaneously filed at that hour. Any rights under such applications filed will be governed by the time of filing.

a. All applications shall be subject to those from persons having prior existing valid settlement rights, preference rights conferred by existing law, or equitable claims subject to allowance and confirmation.

6. Persons claiming preference rights must submit evidence of their entitlement.

7. The lands have been open to applications and offers under the mineral leasing laws. They will be open to location under the U.S. Mining laws beginning at 10:00 a.m., on April 23, 1960. Locations made prior thereto shall be invalid.

8. Inquiries shall be addressed to the Manager, Land Office, Room 1000, California Fruit Building, 4th and J Streets, Sacramento 14, California.

R. G. SPORLEDER,
Officer-in-Charge, Northern Field Group, Sacramento, California.

[F.R. Doc. 59-9172; Filed, Oct. 29, 1959; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-18]

GENERAL ELECTRIC CO.

Notice of Issuance of Amendment to Utilization Facility License

Please take notice that the Atomic Energy Commission has issued Amendment No. 13 to Facility License No. DPR-1, set forth below, which authorizes General Electric Company, within certain specified limitations, to operate the Vallecitos Boiling Water Reactor solely for the purpose of conducting tests to identify the reason or reasons why the control rod insertion time is not within the limits heretofore authorized by AEC License No. DPR-1.

The Commission has found that issuance of the amendment to License No. DPR-1 will not result in undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the reactor in accordance with the amended license as proposed does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously authorized operation of the Vallecitos Boiling Water Reactor.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after issuance of the license amendment. For further details see (1) the application for license amendment submitted by General Electric Company and (2) a hazards analysis of the proposed operation of the reactor prepared by the Hazards Evaluation Branch of the Division of Licensing and Regulation, both on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 21st day of October 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Acting Director, Division of Licensing and Regulation.

[License No DPR-1, Amdt. 13]

License No. DPR-1, as amended, is hereby amended as follows:

1. Until further authorized by the Commission, in writing, General Electric Company shall operate the Vallecitos Boiling Water Reactor solely for the purpose of conducting tests to identify the reason or reasons why the control rod insertion time is not within the limits heretofore authorized by AEC License No. DPR-1.

2. The test program referred to in paragraph 1 above shall be conducted in accordance with the conditions of paragraph 4 of License No. DPR-1, as amended, and within the limitations described in General Electric Company's Amendment No. 37 to its application for license.

3. During the conduct of these tests the reactor power level shall not exceed two megawatts (thermal).

This amendment is effective as of the date of issuance.

Date of issuance: October 21, 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Acting Director, Division of Licensing and Regulation.

[F.R. Doc. 59-9168; Filed, Oct. 29, 1959; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

GLENN E. CARTER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER.

A. Deletions: No changes.
B. Additions: No changes.

This statement is made as of October 20, 1959.

Dated: October 20, 1959.

GLENN E. CARTER.

[F.R. Doc. 59-9192; Filed, Oct. 29, 1959; 8:47 a.m.]

NORVAL W. POSTWEILER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and

Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER of the last six months.

A. Deletions: Bethlehem Steel; Armco.
B. Additions: No change.

This statement is made as of October 20, 1959.

Dated: October 20, 1959.

NORVAL W. POSTWEILER.

[F.R. Doc. 59-9193; Filed, Oct. 29, 1959; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 9214 etc.; Order No. E-14586]

NEW YORK-SAN FRANCISCO NONSTOP SERVICE CASE

Order Granting Further Oral Argument and Denying Stay

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of October 1959.

By Order E-14412, dated September 2, 1959, the Board authorized American Airlines, Inc. (American), to provide nonstop service between New York and San Francisco in competition with Trans World Airlines, Inc. (Trans World), and United Air Lines, Inc. (United). The application of Northwest Airlines, Inc. (Northwest), for authority to provide similar service was denied. Petitions for reconsideration and for other relief, including a stay, have been filed by various parties, and counterpleadings have been received.[1]

Trans World and United urge that the Board's order rests upon certain substantive and procedural errors, including among others, denial of a fair hearing by reason of ex parte communications made or inspired by American, San Francisco, and Port of New York Authority, and by other efforts of these parties to bring pressure or influence to bear upon the Board. Petitioners claim that the alleged ex parte communications and efforts to solicit and inspire pressure resulted in violations of Rule 2 (a) and (c) of the Board's principles of practice, and Rules 18 and 24(j) of the rules of practice, the legal effect of which is alleged to necessitate vacation of Order E-14412 and a hearing de novo or, in the alternative, a reopening of the proceeding with a preliminary hearing to determine the facts as to ex parte activity and its effect upon the qualifications of the applicants and the Members of the Board. If the latter course is chosen by the Board, petitioners request that the effectiveness of Order E-14412 be stayed.

While it is requested that the qualifications of Members be made a subject of the preliminary hearing, there is no allegation of any personal misconduct on the part of any Member in regard to his vote on the application, or otherwise. The pleadings appear to bring the Board's qualifications into question only insofar as the alleged campaign of pressure might be shown to have had some effect on the judgment of any Member.

The Board, upon consideration of the matters raised in the petitions and answers and other pleadings relating thereto, has decided to entertain oral argument to determine whether and to what extent the allegations of violations of the principles of practice and rules of practice justify further action in this proceeding, and if so, what action should be taken. In this regard, the Board wishes the argument to be addressed, among other things, to the questions (a) whether the allegations establish a prima facie case of violation of the principles of practice or rules of practice and (b) to what extent, if any, the alleged conduct affects the qualifications and comparative fitness of applicants, and the validity of the proceeding.

The Board has further decided that its inherent power to modify a certificate prior to final disposition of the proceeding in which it is issued should be made explicit by reissuing the certificate granted herein subject to a defeasance clause, so that in the event that, at the conclusion of further proceedings herein, any action is required to terminate the New York-San Francisco nonstop authority previously granted, no color of claim will exist that the Board is powerless to do so.[2] On the question of staying this certificate, the Board has determined to deny this request.

With respect to the petitions for rehearing, reargument, and reconsideration (except for those issues upon which oral argument is being granted herein), Chairman Durfee and Member Denny have voted to grant the petitions, whereas Vice Chairman Gurney and Member Minetti have voted to deny them. Accordingly, such petitions (with the exception already noted) fail for want of a majority. The views of the Members in this regard will appear at a later date.

Accordingly, it is ordered:

1. That further oral argument in this proceeding on the matters set forth above, be held on November 17, 1959, at 10:00 a.m. in Room 1027, Universal Building, Florida and Connecticut Avenues NW., Washington, D.C.

2. That the amended certificate of public convenience and necessity issued to American Airlines, Inc., for Route 4 pursuant to Order E-14412, dated September 2, 1959, be and hereby is canceled.

3. That an amended certificate of public convenience and necessity in the form attached hereto[3] be issued to American Airlines, Inc., for Route 4, that said amended certificate shall be signed on behalf of the Board by the Chairman, shall have affixed thereto the seal of the Board attested by the Secretary, and shall be effective on November 1, 1959.

4. That the petitions for a stay, and, except with regard to the matters set forth above for further proceedings, the petitions for rehearing, reargument, and reconsideration be and hereby are denied.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 59-9214; Filed, Oct. 29, 1959; 8:50 a.m.]

[1] Trans World filed a petition for vacation of Order E-14412 and termination of the proceedings or, in the alternative, reopening with a preliminary hearing and stay of the order. United filed petitions for rehearing, reargument, and reconsideration, and for a stay of the order. A petition for reconsideration has been filed by Northwest. Answers to the three petitions for reconsideration have been filed by American, Public Utilities Commission of the City and County of San Francisco, San Francisco Chamber of Commerce, Port of Oakland and, to Northwest's petition, by Trans World and United. United has requested leave to file a reply to American's answer, and such request has been opposed by American. Answers to United's petition for stay have been received from American, City and County of San Francisco, San Francisco Chamber of Commerce, and Northwest. The Port of New York Authority has filed a motion to strike portions of the Trans World and United petitions, and answers thereto have been submitted by those two carriers.

[2] The Board is convinced that the express reservation in this power is unnecessary, but is making such a reservation here in view of the pending litigation in Delta Air Lines, Inc., v. C.A.B., Case 25,852, United States Court of Appeals for the Second Circuit.

[3] Filed as part of the original document.

CIVIL SERVICE COMMISSION

POSITIONS IN SERIES GS-690-0 INDUSTRIAL HYGIENE AND SERIES GS-1306-0 HEALTH PHYSICS

Notice of Increase in Minimum Rates of Pay

Under the provisions of section 803 of the Classification Act of 1949, as amended (68 Stat. 1106; 5 U.S.C. 1133), pursuant to 5 CFR 25.103, 25.105, the Commission has increased the minimum rates of pay for positions in Series GS-690-0 Industrial Hygiene and in Series GS-1306-0 Health Physics.

The increases will be effective on the first day of the second pay period which begins after October 30, 1959, and apply to these positions in the United States (including Alaska, Hawaii, and the District of Columbia).

The minimum rates of pay for these positions have been increased as follows:

GS-5 from $4040 to $4490 (fourth step).
GS-7 from $4980 to $5430 (fourth step).
GS-9 from $5985 to $6285 (third step).
GS-11 from $7030 to $7510 (third step).
GS-12 from $8350 to $8810 (third step).
GS-13 from $9890 to $10130 (second step).
GS-14 from $11355 to $11595 (second step).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-9194; Filed, Oct. 29, 1959; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[Agency Bulletin 59-38]

GENERAL COUNSEL, DEPUTY GENERAL COUNSEL, ALL ASSOCIATE GENERAL COUNSELS, AND ALL REGIONAL ATTORNEYS

Delegation of Authority

1. *Purpose.* The purpose of this notice is to delegate to the General Counsel, Deputy General Counsel, all Associate General Counsels, and all Regional Attorneys, certain authority of the Administrator under Title III of the Federal Aviation Act of 1958 relating to the conduct of hearings and investigations.

2. *Delegation.* Section 303(d) of the Federal Aviation Act of 1958 authorizes the Administrator to delegate the performance of any function under the Act to any officer, employee, or administrative unit under his jurisdiction.

Authority to take evidence, issue subpoenas, take depositions, and compel testimony in the conduct of hearings and investigations authorized by the Federal Aviation Act of 1958 or by the Federal Airport Act, and to exercise all authority vested in the Administrator by sections 313(c) and 1004 of the Act is hereby delegated to the General Counsel, Deputy General Counsel, all Associate General Counsels and the Regional Attorneys for the various Regions. These individuals are directed to exercise this authority in accordance with any applicable policies established or approved by the Administrator.

3. *Effective date.* This notice is effective November 1, 1959.

Issued in Washington, D.C. on October 26, 1959.

E. R. QUESADA,
Administrator.

[F.R. Doc. 59-9180; Filed, Oct. 29, 1959; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12955, 12956; FCC 59M-1408]

BALD EAGLE-NITTANY BROADCASTERS AND SUBURBAN BROADCASTING CORP.

Order Continuing Hearing

In re applications of W. K. Ulerich, Milton J. Bergstein and John A. Dame, d/b as Bald Eagle-Nittany Broadcasters, Bellefonte, Pennsylvania, Docket No. 12955, File No. BP-11998; Suburban Broadcasting Corp., State College, Pennsylvania, Docket No. 12956, File No. BP-12007; for construction permits.

A further prehearing conference in the above-entitled matter having been held on October 23, 1959, pursuant to the agreements reached therein;

It is ordered, This 23d day of October 1959 that the dates for exchange of preliminary drafts of the applicants' technical engineering exhibits, for exchange of the written sworn exhibits constituting direct cases of the parties and for notification of witnesses to be made available for cross-examination are continued to November 23, 1959, December 7, 1959 and December 21, 1959, respectively;

It is further ordered, That the hearing in this matter presently scheduled to commence on December 2, 1959 is continued to January 4, 1960 commencing at 10:00 a.m. in the offices of the Commission, Washington, D.C.

Released: October 26, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-9201; Filed, Oct. 29, 1959; 8:48 a.m.]

[Docket Nos. 12950, 12951; FCC 59M-1407]

ISLAND TELERADIO SERVICE, INC. AND WPRA, INC. (WPRA)

Order Continuing Hearing Conference

In re applications of Island Teleradio Service, Inc., Charlotte Amalie, St. Thomas, Virgin Islands, Docket No. 12950, File No. BP-11801; WPRA, Inc. (WPRA) Guaynabo, Puerto Rico, Docket No. 12951, File No. BP-12551; for construction permits.

The Hearing Examiner having under consideration a petition filed October 21, 1959, on behalf of Island Teleradio Service, Inc. requesting that the further prehearing conference now scheduled for November 2, 1959, be postponed until 2:00 p.m. on November 9, 1959; and

It appearing that the reason for the requested continuance arises from the fact that the parties will be unable to exchange their engineering exhibits on October 26, 1959, the date originally contemplated but that such exhibits can be exchanged on or before November 2, 1959; and

It further appearing that good cause for the requested continuance having been shown, that such continuance is agreeable to all parties concerned and that the time element requires prompt action on the pleading;

It is ordered, This the 23d day of October 1959, that the petition for extension of time is granted and the date for the further prehearing conference is continued from November 2, 1959 to November 9, 1959, beginning at 2:00 p.m.

Released: October 26, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-9202; Filed, Oct. 29, 1959; 8:48 a.m.]

[Docket No. 13253; FCC 59-1081]

MADISON BROADCASTERS

Order Designating Application for Hearing on Stated Issues

In re application of John W. Ecklin and James C. Grisham, d/b as Madison Broadcasters, Madison, South Dakota, Docket No. 13253, File No. BP-12222; Requests: 1570kc, 250w, Day; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 21st day of October 1959;

The Commission having under consideration the above-captioned and described application;

It appearing that, except as indicated by the issues specified below, the instant applicant is legally, technically and otherwise qualified to construct and operate the instant proposal, but may not be financially qualifed; and

It further appearing that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated August 21, 1959, and incorporated herein by reference, notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicant filed a timely reply to the aforementioned letter, which reply has not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring a hearing on the particular issues hereinafter specified; and in which the applicant stated that it would appear at a hearing on the instant application; and

It further appearing that on September 8, 1959, the instant applicant filed an amendment indicating that used equipment had been purchased; that the applicant now has a complete station; but that the application form (FCC Form 301) requires that an applicant show the estimated cost of the proposed station and that, therefore, an itemized list of the equipment purchased for the station, showing the cost of each item and from whom purchased, should be furnished; that each partner is required to furnish his individual balance sheet, as of a current date showing all his assets and liabilities and, in addition, a statement showing the income, after Federal taxes, of each partner for the year 1958; and that, until this information is furnished, it cannot be determined whether the applicant is financially qualified to operate the proposed station; and

It further appearing that, after consideration of the foregoing and the applicant's reply, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Commmuications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary

service from the proposed operation of Madison Broadcasters and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal of Madison Broadcasters would involve objectionable interference with Station KMRS, Morris, Minnesota, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether interference received from Station KMRS, Morris, Minnesota, would affect more than ten percent of the population within the normally protected primary service area of the instant proposal of Madison Broadcasters, in contravention of § 3.28 (c) (3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

4. To determine whether Madison Broadcasters is financially qualified to construct and operate its proposed station.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That Clifford L. Hedberg tr/as Western Minnesota Broadcasting Company, licensee of Station KMRS, Morris, Minnesota, is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

Released: October 26, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-9203; Filed, Oct. 29, 1959; 8:48 a.m.]

[Docket No. 13254; FCC 59-1032]

SANTA ROSA BROADCASTING CO.

Order Designating Application for Hearing on Stated Issues

In re application of Santa Rosa Broadcasting Company Santa Rosa, California, Docket No. 13254, File No. BP-1153; Requests: 1460kc, 1kw, DA, Day for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 21st day of October 1959;

The Commission having under consideration the above-captioned and described application;

It appearing that, except as indicated by the issues specified below, the instant applicant is legally, technically and otherwise qualified to construct and operate the instant proposal but may not be financially qualified; and

It further appearing that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in letters dated January 22 and September 2, 1959, and incorporated herein by reference, notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience and necessity; and that copies of the aforementioned letters are available for public inspection at the Commission's offices; and

It further appearing that the applicant filed timely replies to the aforementioned letters, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring a hearing on the particular issues hereinafter specified; and in which the applicant stated that it would appear at a hearing on the instant application; and

It further appearing that, by amendment filed September 22, 1959, the applicant submitted additional financial data, but that the agreements whereby Messrs. Schofield and Fulks are to furnish additional funds are not verified and do not show amounts to be furnished, terms of repayment and security, if any, in accordance with Section III, page 2, Paragraph 4c of the application form; that Messrs. Brenner, Schofield and Fulks have not furnished current balance sheets from which to determine whether they have sufficient cash or liquid assets with which to meet their commitments; that the instrument upon which the applicant relies to show the availability of deferred payments to the equipment manufacturer contains merely a description of terms which are made available to applicants generally once credit is approved, and does not contain any statement that such credit has been approved and extended to the applicant herein; and that, therefore, it cannot be determined whether the applicant is financially qualified to meet the costs of construction and initial operation of the proposed station; and

It further appearing that, after consideration of the foregoing and the applicant's replies, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Santa Rosa Broadcasting Company is financially qualified to construct and operate its proposed station.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That, to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: October 26, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-9204; Filed, Oct. 29, 1959; 8:48 a.m.]

[Docket No. 13252; FCC 59-1080]

TRI-STATE BROADCASTING CO. (WGTA)

Order Designating Application for Hearing on Stated Issues

In re application of Tri-State Broadcasting Company (WGTA), Summerville, Georgia, Docket No. 13252, File No. BP-12296, Has: 950kc, 1kw, Day. Requests: 950kc, 5kw, Day for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C. on the 21st day of October 1959;

The Commission having under consideration the above-captioned and described application;

It appearing that, except as indicated by the issues specified below, the applicant is legally, technically and otherwise qualified but may not be financially qualified to meet the costs of construction and initial operation of the station as proposed; and

It further appearing that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated August 27, 1959, and incorporated herein by reference, notified the instant applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicant filed a timely reply to the aforementioned letter, which reply has not, however, entirely eliminated the grounds and reasons precluding a grant of the said application and requiring a hearing on the particular issues hereinafter specified; and

It further appearing that the operation of Station WETO, Gadsden, Alabama, as proposed in the application of Cary Lee Graham tr/as Gadsden Radio Company (File No. BP-11669), would involve mutual interference with the proposed operation of WGTA, but that Cary Lee

Graham failed to respond to the Commission's letter of August 27, 1959, in which he was advised of the mutual interference problem between the proposed operations of Stations WETO and WGTA and that, therefore, Cary Lee Graham was advised by the Commission's letter of October 12, 1959, that his application has been dismissed for failure to prosecute pursuant to the provisions of § 1.312(b) of the Commission rules; and

It further appearing that on September 8, 1959, the application of the Tri-State Broadcasting Company was amended to include a letter from the Farmers & Merchants Bank, Summerville, Georgia, offering to lend $15,000 to be repaid on the basis of $500 per month at the rate of six percent interest, but that the Tri-State Broadcasting Company has not furnished sufficient financial information to indicate that funds will be available for financing the construction and continued operation of the WGTA proposal and to meet the payments on the loan; that the letter from the equipment manufacturer submitted by the Tri-State Broadcasting Company purporting to extend credit appears to be merely information showing terms available in the purchase of equipment if and when credit has been approved; and, therefore, it cannot be determined whether the Tri-State Broadcasting Company is financially qualified; and

It further appearing that, after consideration of the foregoing and the reply of WGTA, the Commission is still unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WGTA and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal of WGTA would involve objectionable interference with Stations WAGG, Franklin, Tennessee, and WRMA, Montgomery, Alabama, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether intereference received from WAGG, WRMA and WETO would affect more than ten percent of the population within the normally protected primary service area of the instant proposal of WGTA, in contravention of § 3.28(c)(3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

4. To determine whether the Tri-State Broadcasting Company is financially qualified to construct and operate its proposed station.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That Williamson County Broadcasting Company, Incorporated, and WRMA Broadcasting Co., Inc., licensees of Stations WAGG and WRMA, respectively, are made parties to the proceeding.

It is further ordered, That, in the event WGTA's proposal is granted, the construction permit shall contain a condition that prior to program test authorization, permittee shall substantiate, by means of field intensity measurements, that a radiation of 175 mv/m/kw has been achieved.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

Released: October 26, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-9205; Filed, Oct. 29, 1959; 8:48 a.m.]

[Docket No. 13187; FCC 59M-1402]

WESTERN UNION TELEGRAPH CO.

Order Continuing Hearing

In the matter of the formula for the distribution by the Western Union Telegraph Company of telegraph traffic destined to points in Canada; Docket No. 13187.

The Hearing Examiner having under consideration a petition filed October 16, 1959, by The Great North Western Telegraph Company of Canada and Canadian National Telegraph Company requesting that the evidentiary hearing now scheduled to commence on November 24, 1959, be continued indefinitely; and

It appearing that the reason for the requested continuance arises from the fact that the parties are conducting studies and negotiations directed towards the development of mutually agreeable formulae for the handling of telegraph message traffic from the United States to Canada and for the divisions of the charges therefor and the additional time is needed to conclude such studies; and

It further appearing that counsel for all parties, including the Chief, Common Carrier Bureau, have consented to the requested continuance and that good cause for a continuance of the hearing for 90 days beyond November 24, 1959, having been shown;

It is ordered, This the 23d day of October 1959, that the above petition insofar as it requests a continuance of the hearing is granted and the evidentiary hearing in the above-entitled proceeding now scheduled to commence on November 24, 1959, is continued to February 24, 1960.

Released: October 26, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-9206; Filed, Oct. 29, 1959; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2059]

BANKERS SECURITIES CORP.

Notice of Application To Strike From Listing and Registration, and of Opportunity for Hearing

OCTOBER 26, 1959.

In the matter of Bankers Securities Corporation, 6% preferred stock, File No. 1-2059.

Philadelphia-Baltimore Stock Exchange has made application, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-1(b) promulgated thereunder, to strike the specified security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

The issue is inactive on the Exchange. The issuer has no objection to the delisting.

Upon receipt of a request, on or before November 10, 1959, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D.C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-9173; Filed, Oct. 29, 1959; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Project No. 2243]

PACIFIC NORTHWEST POWER CO.

Notice of Application for License

OCTOBER 26, 1959.

Public notice is hereby given that Pacific Northwest Power Company, of Portland, Oregon, has filed an application under the Federal Power Act (16 U.S.C. 791a–825r) for a license for proposed water-power Project No. 2243, to be known as the High Mountain Sheep Hydroelectric Development and located on the Snake River and its tributary the Imnaha River, in Idaho and Adams Counties, Idaho, and Wallowa County, Oregon, and to consist of a concrete arch dam with side hill gated overflow spillway section located on the Snake River in Idaho and Oregon approximately .5 of a mile upstream from the Salmon River and 2.5 miles downstream from the Imnaha River forming a reservoir with top elevation of 1,510 feet, extending 58.5 miles upstream from the dam to the Low Hells Canyon Development of Propect No. 1971 and having total and maximum usable storage capacities of 3,600,000 and 3,100,000 acre-feet, respectively; two powerhouses located immediately downstream from the dam abutments, one on the Oregon side with initial installation of three generating units and provision for ultimate installation of two additional units, and the other on the Idaho side with initial installation of two generating units and provisions for ultimate installation of three additional units, each unit in both powerhouses being rated 175,000 kilowatts; an adjacent switchyard; and associated hydraulic and electrical facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is December 4, 1959. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–9184; Filed, Oct. 29, 1959; 8:47 a.m.]

[Docket Nos. G–19944—G–19952]

SUN OIL CO. ET AL.

Order for Hearings and Suspending Proposed Changes in Rates [1]

OCTOBER 23, 1959.

In the matters of Sun Oil Company, Docket No. G–19944; Leonard W. Phillips, et al., Docket No. G–19945; Union Oil Company of California (Operator), et al., Docket No. G–19946; Union Oil Company of California, Docket No. G–19947; R. R. Frankel, Docket No. G–19948; Texaco Inc., Docket No. G–19949; Phillips Petroleum Company, Docket No. G–19950; J & M Well Service Company, Docket No. G–19951; Rodman, Late & Noel, Docket No. G–19952.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for their sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Notice of change dated—	Date tendered	Effective date [2] unless suspended	Rate suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate
G–19944	Sun Oil Co	42	10	Texas Gas Pipe Line Corp. (Nome Field, Jefferson Co., Tex.).	9–14–59	9–24–59	11–1–59	4–1–60	[3] 13.93248	[4] 17.25
G–19945	Leonard W. Phillips, et al	4	5	Tennessee Gas Transmission Co. (Bethany-Carthage Fields, Panola & Harrison Cos., Tex.).	10–2–59	10–2–59	11–2–59	4–2–60	12.62	[4] 14.4248
		3	11	Tennessee Gas Transmission Co. (S. Hallsville Field, Harrison Co., Tex.).	10–2–59	10–2–59	11–2–59	4–2–60	12.62	[4] 14.4248
G–19946	Union Oil Co. of California (operator), et al.	6	5	Transcontinental Gas Pipe Line Corp. (Fresh Water Bayou Field, Vermilion Parish, La.).	9–29–59	9–29–59	11–1–59	4–1–60	[5] 17.75	[6] 18.75
		5	5	Transcontinental Gas Pipe Line Corp. (E. White Lake Field, Vermilion Parish, La.).	9–29–59	9–29–59	11–1–59	4–1–60	[5] 17.75	[6] 18.75
G–19947	Union Oil Co. of California	2	7	Transcontinental Gas Pipe Line Corp. (W. White Lake Field, Vermilion Parish, La.).	9–29–59	9–29–59	11–1–59	4–1–60	[5] 17.75	[6] 18.75
		3	4	Transcontinental Gas Pipe Line Corp. (Tigre Lagoon Field, Iberia & Vermilion Parish, La.).	9–29–59	9–29–59	11–1–59	4–1–60	[5] 17.75	[6] 18.75
		4	4	Transcontinental Gas Pipe Line Corp. (Vinton Field, Calcasieu Parish, La.).	9–29–59	9–29–59	11–1–59	4–1–60	[5] 17.75	[6] 18.75
G–19948	R. R. Frankel	1	3	Gas Gathering Corp. (Happytown Field, St. Martin Parish, La.).	9–29–59	10–1–59	11–1–59	4–1–60	[7] 15.0	[6] 16.0
G–19949	Texaco, Inc	166	2	Kansas-Nebraska Natural Gas Company, Inc. (Camrick-Southeast Field, Texas Co., Okla.).	Undated	10–5–59	11–7–59	4–7–60	[8] 16.2	[10] 16.4
G–19950	Phillips Petroleum Co	145	8	Texas Gas Pipe Line Corp. (Robinson Lake Field, Chambers Co., Tex.).	10–1–59	10–5–59	11–5–59	4–5–60	[11] 13.93248	[10] 17.25
G–19951	J&M Well Service Co	1	1	Tennessee Gas Transmission Co. (Los Torritos Field, Hidalgo Co., Tex.).	Undated	10–2–59	11–2–59	4–2–60	12.12263	[10] 15.0952
G–19952	Rodman, Late & Noel	1	4	El Paso Natural Gas Co. (Spraberry Field, Upton, Reagan, Midland & Glasscock Cos., Tex.).	10–1–59	10–5–59	11–5–59	4–5–60	[12] 11.0	[10] 14.1177

[2] The stated effective dates are those requested by Respondents, or the first day after the expiration of statutory notice, whichever is later.
[3] Rate in effect subject to refund in Docket No. G–16686.
[4] Pressure base is 14.65 psia.
[5] Rate in effect subject to refund in Docket No. G–17666.
[6] Pressure base is 15.025 psia.
[7] Rate in effect subject to refund in Docket No. G–17671.
[8] Rate in effect subject to refund in Docket No. G–16796.
[10] Pressure base is 14.65 psia.
[11] Rate in effect subject to refund in Docket No. G–17137.
[12] Rate in effect subject to refund in Docket No. G–14934.

In support of its proposed redetermined rate increases Sun Oil Company states that the proposed rate is an integral part of the contract arrived at arm's length bargaining and that the price does not exceed the value of gas in the area.

Leonard W. Phillips, et al., in support of each of his proposed redetermined rate increases, states that the amount involved in the increase is a modest one and justified on the basis of industry-wide increases in discussing and production costs. He also states the increased rate is far below and out of line with prices under currently negotiated contracts in all areas of the country.

Union Oil Company of California, individually and as (Operator), et al., in support of its proposed periodic rate increases states that the increases are provided for by the renegotiated contracts which were renegotiated because Transco required larger deliveries and greater reserves. Further, Union claims that under the third party favored-nation provision of the old contracts, Transco would have been required to pay more than the renegotiated price. It states the 17.0 cents (base) price is substantially below the prevailing price of gas in the South Louisiana area, and cites various initial service prices that are higher. Union requests non-suspension and states it will file a corporate undertaking to refund any amounts in excess of the determined just and reasonable rate.

In support of his proposed periodic rate increase R. R. Frankel cites the contract pricing provisions.

Texaco Inc., in support of its proposed periodic rate increase, mentions arm's

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

length bargaining, statistical indices showing price increase in oil field machinery and tools, and the necessity of the increased rate for encouraged exploration and development.

In support of its proposed redetermined rate increase Phillips Petroleum Company states that the proposed 17.25 cents price is in line with other prices in the area because it is based upon an average of the three highest prices, cites the contract resulting from arm's length bargaining and claims that the rate is just and reasonable.

J & M Well Service Company, in support of its proposed redetermined rate increase, cites the contract provision in its contract.

In support of its favored-nation increased rate proposal, Late & Noel Rodman cite the applicable provision of the contract and state that the price change is not attributable to a change in the contract.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15, thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearing and decision thereon, each of the aforementioned supplements is suspended and the use thereof deferred until the date specified in the above-designated "Rate Suspended Until" column and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-9185; Filed, Oct. 29, 1959; 8:47 a.m.]

[Docket No. G-18202 etc.]

LOUIS CROUCH ET AL.

Notice of Applications and Date of Hearing

OCTOBER 23, 1959.

In the matters of Louis Crouch[1] G-18202; Ada Oil Company, Operator[2] G-18598; El Paso Natural Gas Products Company, G-18629; Skelly Oil Company[3], G-18879; Texaco Inc.[4], G-18902; H. L. Hawkins and H. L. Hawkins, Jr., Operator, et al.[5], G-18906; J. E. Conally, et al.[6], G-18925; Argo Oil Corporation, Operator, et al.[7], G-18927; P. G. Lake, Inc., Operator[8], G-18959; Gulf Oil Corporation[9], G-18977; Remlig Oil Company, G-18978; Humble Oil & Refining Company, G-18993; Guyan Gas Company[10], G-18994; Westland Oil Development Corporation, G-18996.

Take notice that each of the above Applicants has filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing each to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications, and any amendments thereto, which are on file with the Commission and open to public inspection.

The respective Applicants produce and propose to sell natural gas for transportation in interstate commerce for resale as indicated below:

Docket No., Field and Location and Purchaser

G-18202; Fort Stockton Field, Pecos County, Tex.; El Paso Natural Gas Co.

G-18598; Fort Stockton Field, Pecos County, Tex.; Louis Crouch.

G-18629; Fort Stockton Field, Pecos County, Tex.; Louis Crouch.

G-18879; Fort Stockton Field, Pecos County, Tex.; Louis Crouch.

G-18902; Ignacio Blanco Mesa Verde Field, La Plata County, Colo.; El Paso Natural Gas Co.

G-18906; Menefee Field, Wharton County, Tex.; Texas Illinois Natural Gas Pipeline Co.

G-18925; Spraberry Trend Field, Midland County, Tex.; El Paso Natural Gas Co.

G-18927; Dunn Field Live Oak County, Tex.; Texas Eastern Transmission Corp.

G-18959; Waskom Field, Harrison County, Tex.; Arkansas Louisiana Gas Co.

G-18977; Laverne Field, Harper County, Okla.; Michigan Wisconsin Pipe Line Co.

G-18978; Laverne Field, Harper County, Okla.; Michigan Wisconsin Pipe Line Co.

G-18993; South Pecos Valley Field, Pecos County, Tex.; El Paso Natural Gas Co.

G-18994; Oceana Field, Wyoming County, W. Va.; Hope Natural Gas Co.

G-18996; Laverne Field, Harper County, Okla.; Michigan Wisconsin Pipe Line Co.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 8, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 23, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE, *Secretary.*

[1] Application covers the proposed sale of surplus gas (over and above that required to supply the City of Fort Stockton, Texas, an intrastate transaction) to El Paso Natural Gas Company. Applicant produces a portion of the subject gas and purchases the remainder from the following producers: Ada Oil Company, El Paso Natural Gas Products Company and Skelly Oil Company.

[2] Ada Oil Company, Operator, is filing for itself and, as Operator, lists in its related rate schedule filings, together with the interest of each, the following nonoperating owners of working interests: Clark Clifford, Kenneth Perry, Nominee, and K. S. Adams, Jr., Operator. Perry and Clifford are signatory seller parties to the subject gas sales contract and Adams is a non-signatory party.

[3] Applicant proposes to sell its gas to Louis Crouch pursuant to a gas sales contract dated December 3, 1954 between Skelly, Seller, and City of Fort Stockton, Texas, Buyer. Crouch acquired the subject contract from City of Fort Stockton, Texas, by instrument of assignment dated January 20, 1958.

[4] Production is limited to the Mesa Verde Formation.

[5] H. L. Hawkins and H. L. Hawkins, Jr., Operators, are filing for themselves and on behalf of the following nonoperators: Judy Hancock Grubb, Jackie Grubb Ankenman, Estate of Naomi S. Grubb, Estates of Maurice Ankenman and Wayne D. Ankenman, Jr., Minors, C. M. Frost, Mrs. Elaine S. Frost, V. W. Frost, Mrs. Lillian Frost, J. M. Frost, Jr., and R. H. Goodrich. Application covers a ratification agreement dated June 10, 1959 of a basic gas sales contract dated October 15, 1957 between John F. Anderson, et al., Sellers, and Texas Illinois, Buyer. H. L. Hawkins, H. L. Hawkins, Jr., Judy Hancock Grubb, Estate of Naomi S. Grubb, Jackie Grubb Ankenman, Estates of Maurice Ankenman and Wayne D. Ankenman, Jr., Minors, are signatory parties to the subject ratification agreement, which has also been signed by the Buyer.

[6] J. E. Connally, d/b/a Connally Oil Company, Applicant, acquired the subject acreage by assignment from Humble Oil & Refining Company by instrument dated November 19, 1958. Applicant proposes to sell gas to the purchaser under a basic gas sales contract dated November 3, 1952, between Humble Oil & Refining Company, Seller, and El Paso Natural Gas Company, Buyer. In four additional instruments of assignment dated February 16, April 27, May 19 and June 9, 1959, Applicant acquired from Humble ad-

ditional producing horizons. On August 20, 1959, Applicant amended its original application to include additional acreage acquired through the November 19, 1958 assignment (but not previously applied for) and additional producing horizons acquired from Humble through instrument of assignment dated February 24, 1959.

[7] Argo Oil Corporation, Operator, is filing for itself and, as Operator, lists in the application together with the proportions of working interests, the following nonoperators: Forney and Worrel, a partnership composed of Maurice E. Forney and Charles J. Worrel, and R. L. Kirkwood. All are signatory seller parties to the subject gas sales contract.

[8] P. G. Lake, Inc., Operator, is filing for itself and on behalf of the following nonoperators listed together with the percentages of working interests in the subject leases: Z. J. Spruiell, R. H. Hedge, Peoples National Bank and Sol Edleman, Trustees of the Estate of Sam Gross, Deceased, and Ruth Dorothy Gross. Operator is a signatory seller party to the subject gas sales contract.

[9] Gulf Oil Corporation, Applicant, is a signatory seller party to the subject gas sales contract through the signature of its Agent, Warren Petroleum Corporation.

[10] Guyan Gas Company, Applicant, is a partnership composed of Marshall G. West, Guyan Auto Sales, Inc., Margaret Cooke Pipe, Betty Raines, Lillie V-D Cooke, John P. Cooke, Dr. H. A. Bracy, Quinto Barry, Earle Ireson, J. A. Tyson, Mollie K. Neal, Rita N. Kaylor, Alvery Adkins, Daisy K. Hall, J. Russell or Sue Burr Cook, William F. or Jeanne E. Fletcher, Clarence H. and Clara E. Boso, Reger Funeral Home, Inc., E. O. and Maxine Jenkins, E. Martin or Julia E. Pais, R. H. or Elizabeth A. Bennett, J. Lewis or Gladys V. Pais, N. W. or Martha Steadman, J. Joe Rahall, M. A. Johnson, A. J. Lubliner, James V. or Mary S. Larkin, Lewis P. or Hazel Vinieratos, L. D. Griffith, J. Robert or Kathlyn H. Fletcher, Clark M. Thornton, Jr., H. K. and Lucille Kauffman, Ruth B. or N. S. Newton, J. S. or Mable M. Richardson, Dorothy Hutchison and D. Grove Moler. Marshall G. West is a signatory seller party to the subject gas sales contract and the remaining above-named partners are also signatory parties through the signature of Marshall G. West who has signed the contract as Attorney-in-Fact for said partners. Applicant acquired the subject acreage by assignment dated July 10, 1959 from Smith & Justice Gas Company.

[F.R. Doc. 59-9186; Filed, Oct. 29, 1959; 8:47 a.m.]

[Docket No. G-18673]

LACLEDE GAS CO.

Notice of Application and Date of Hearing

OCTOBER 23, 1959.

Take notice that Laclede Gas Company (Laclede) filed on June 1, 1959, an application pursuant to section 7(a) of the Natural Gas Act for an order directing Panhandle Eastern Pipe Line Company (Panhandle) to establish physical connection of its facilities with facilities to be built by Laclede and to deliver and sell natural gas to Laclede for use in developing its proposed Hallsville storage reservoir in Boone County, Missouri, subject to the jurisdiction of the Commission, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Laclede, which is the gas distributor in St. Louis, Missouri, represents that it has located a geologic structure, which may be suitable for storage purposes, at Hallsville, Missouri, some one hundred miles from Laclede's existing facilities at St. Louis. The area of the geologic structure is traversed by Panhandle's existing main lines. Laclede's application states that in order to avoid construction now of the pipeline between the potential storage field and its existing facilities in St. Louis, it desires to purchase up to 6,200,000 Mcf on an interruptible basis from Panhandle during the period ending October 31, 1962, for use in developing the reservoir and as cushion gas. If the Hallsville field should prove to be feasible applicant proposes to build a pipeline to its existing facilities in St. Louis from Hallsville, and use its supply from Mississippi River Fuel Corporation for top storage or circulating gas. Laclede asserts in its letter of June 30, 1959, to the Commission that such a pipeline requires no State authorization. No request has been made for Commission authorization of the intended pipeline from Hallsville to St. Louis.

Applicant estimates the total cost of the project to be $16,541,000, including $13,000,000 for the proposed 100 mile 24-inch pipeline and 6,220,000 Mcf of cushion and testing gas at 30 cents per Mcf.

Panhandle in its answer filed July 7, 1959, objects to the Laclede application on the following grounds:

1. Laclede's 7(a) request is for a sale which the Commission is not empowered to order under the jurisdiction conferred upon it by the Natural Gas Act.

2. Laclede has not shown or even alleged that its project will be economically or physically feasible.

3. Laclede's proposed pipeline from Hallsville to St. Louis will be subject to Federal Power Commission authorization since Laclede states the pipeline will not be subject to State authorization. However, Laclede has not filed an application for authorization to build the pipeline.

4. Since the proposed storage facility and the Hallsville-St. Louis pipeline are interdependent, the storage facility is useless without the pipeline. Therefore, interdependent applications should have been filed.

This matter is one that would be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 23, 1959 at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in the issues presented by such application:

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 13, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9187; Filed, Oct. 29, 1959; 8:47 a.m.]

PAN AMERICAN PETROLEUM CORP. ET AL.

Amendment to Order for Hearing and Suspending Proposed Changes in Rates

OCTOBER 22, 1959.

Pan American Petroleum Corporation (Operator), et al., Docket No. G-19481, etc.; Pan American Petroleum Corporation, Docket No. G-19482.

In the Orders For Hearing And Suspending Proposed Changes In Rates issued September 25, 1959 and published in the FEDERAL REGISTER on October 1, 1959 (24 F.R. 7909), change "Effective date" and "Rate suspended until" in Pan American Petroleum Corporation's supplement No. 2 to Rate Schedule No. 226 to read 11-1-59 and 4-1-60 instead of 10-1-59 and 3-1-60.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9188; Filed, Oct. 29, 1959; 8:47 a.m.]

[Docket No. G-19780]

PANHANDLE EASTERN PIPE LINE CO.

Order Suspending Proposed Revised Tariff Sheets and Providing for Hearing

OCTOBER 23, 1959.

Panhandle Eastern Pipe Line Company (Panhandle) on September 10, 1959, tendered for filing Fourth Revised Sheets Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 19, 20, 22, 23, 24, 29 and 31; Fifth Revised Sheet No. 27 and Eighth Revised Sheet No. 25 to its FPC Gas Tariff Original Volume No. 1. The above revised tariff sheets, proposed to become effective October 26, 1959, reflect an annual increase in its rates of $8,653,700, or 8.0 percent, based on sales for the year ended May 31, 1959, as adjusted, over rates presently in effect subject to refund in Docket No. G-14755.

In support of its proposed increased rates, Panhandle states that the primary reason for the filing is the increased cost of gas purchased from its affiliate Trunkline Gas Company (Trunkline). Panhandle also relies on (1) use of commodity value for actual cost of produced gas, (2) a 7 percent annual rate of return, (3) associated income taxes computed without deduction for all tax benefits available to it, and (4) claimed increases in wages, taxes and cost of field purchases of gas.

The increased charges by Trunkline to Panhandle have been suspended in Docket No. G–19479; commodity value of gas in lieu of cost of production, rate of return and income taxes are issues previously raised in Docket Nos. G–14755 and G–2506, Panhandle's prior rate increase applications.

The proposed changes in rates, charges, classifications, or services, provided for in the tariff sheets tendered by Panhandle on September 10, 1959, have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

Panhandle requests that the Commission waive the requirements of § 154.63 (b) (3) (e) (1) of the regulations under the Natural Gas Act to permit it to include in its cost support for the proposed increased rates the cost of gas purchased from Trunkline, whose proposed increased rates were suspended in Docket No. G–19479 until March 1, 1960, or one month beyond the test period permitted by the above regulation for use by Panhandle.

The Commission finds:

(1) It is necessary and proper in the public interest, and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, and services contained in Panhandle's FPC Gas Tariff, Original Volume No. 1, as proposed to be amended by Fourth Revised Sheets Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 19, 20, 22, 23, 24, 29 and 31; Fifth Revised Sheet No. 27; and Eighth Revised Sheet No. 25, and that the above-designated tariff sheets and the rates proposed therein be suspended and the use thereof deferred as hereinafter ordered.

(2) The requirements of § 154.63(b) (3) (e) (1) of the Regulations should be waived to permit Panhandle to include as cost support the increased cost of gas purchased from Trunkline.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held on December 8, 1959, at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the lawfulness of the rates, charges, classifications, and services contained in Panhandle's FPC Gas Tariff, Original Volume No. 1 as proposed to be amended by Fourth Revised Sheets Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 19, 20, 22, 23, 24, 29 and 31; Fifth Revised Sheet No. 27; and Eighth Revised Sheet No. 25.

(B) Pending such hearing, and decision thereon, the above-designated tariff sheets and the rates proposed therein be suspended and the use thereof deferred until March 26, 1960, and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) The requirements of § 154.63(b) (3) (e) (1) of the regulations under the Natural Gas Act prescribing the test period be waived to permit Panhandle to include the proposed increased cost of gas purchased from Trunkline resulting from Trunkline's rates now under suspension in Docket No. G–19479.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–9189; Filed, Oct. 29, 1959; 8:47 a.m.]

[Docket No. G–19845]

PHILLIPS PETROLEUM CO.

Order for Hearing and Suspending Proposed Change in Rates

OCTOBER 23, 1959.

Phillips Petroleum Company (Operator), (Phillips), on September 25, 1959, tendered for filing a proposed change in its presently effective rate schedule[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge,[2] is contained in the following designated filings:

Description: (1) Contract,[3] dated September 22, 1959. (2) Supplemental Agreement,[4] dated September 22, 1959. (3) Notice of Change, dated September 22, 1959.

Purchaser: Panhandle Eastern Pipe Line Company.

Rate schedule designation: (1) Supplement No. 25 to Phillips' FPC Gas Rate Schedule No. 5. (2) Supplement No. 26 to Phillips' FPC Gas Rate Schedule No. 5. (3) Supplement No. 27 to Phillips' FPC Gas Rate Schedule No. 5.

Effective Date: October 26, 1959 (stated effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed renegotiated rate increase, Phillips states that its giving up of the spiral escalation clauses and providing no flexible price adjustment clauses until 20 years hence under its life of production contract was no small concession; that the 13.0 cents per Mcf rate resulted from negotiations between the parties in arm's-length bargaining and that, to the best of its knowledge, the proposed increased rate will not trigger any favored-nation clauses in other producer contracts. Additionally, Phillips claims the 13.0 cents per Mcf rate to be fair and reasonable and in the public interest and cites the 17.0 cents per Mcf wellhead gas prices authorized in the Commission's Opinion No. 328, Transwestern Pipeline Company, and the 16.0 cents per Mcf price authorized for J. M. Huber Corporation gasoline plant sales to Colorado Interstate Gas Company in the same area.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplements Nos. 25, 26 and 27 to Phillips' FPC Gas Rate Schedule No. 5 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplements Nos. 25, 26 and 27 to Phillips' FPC Gas Rate Schedule No. 5.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until March 26, 1960, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–9190; Filed, Oct. 29, 1959; 8:47 a.m.]

[Docket No. G–19317]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND NEW YORK STATE NATURAL GAS CORP.

Notice of Application and Date of Hearing

OCTOBER 23, 1959.

Take notice that on August 26, 1959 Transcontinental Gas Pipe Line Corporation (Transco), and New York State Natural Gas Corporation (New York Natural), filed in Docket No. G–19317, a joint application, pursuant to section 7 of the Natural Gas Act for certificates of public convenience and necessity authorizing Transco and New York Natural to exchange and deliver natural gas with each other at an existing interconnection between the two corporations in

[1] Rates previously suspended and are in effect subject to refund in Docket Nos. G–10383 and G–16112.

[2] Change in rate of 6.1111 cents and 6.0333 cents per Mcf from 6.8889 cents and 6.9667 cents, respectively, to 13.0 cents per Mcf at 14.65 psia.

[3] Covers shallow gas (above Chase Group of the Permian System).

[4] Covers sale and purchase of gas from Sneed Plant.

the Leidy Storage Field in Pennsylvania, as hereinafter described and as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco and New York Natural were granted temporary authorization to render the subject service October 8, 1959.

In order to carry out the arrangement referred to, Transco and New York Natural have entered into an exchange agreement for which they seek Commission authorization herein in their joint application. The agreement terminates on December 31, 1960, but does not specify the dates when each party is to deliver gas. It provides for New York Natural to deliver to Transco, when requested, up to 60,000 Mcf per day. The volumes to be delivered to Transco by New York Natural are said to be such volumes of locally produced gas which are available to New York Natural but which New York Natural's pipeline system does not have the capacity to take. Deliveries by New York Natural to Transco are to commence with Commission authorization and continue to about November 15, 1959 and the total volume is estimated not to exceed one billion cubic feet. Transco will inject such volumes directly into the Leidy Storage Pool. Equivalent volumes of gas will be returned by Transco to New York Natural when requested and when Transco has sufficient gas to deliver such volumes from its pipeline. The redelivery by Transco of all the borrowed gas from New York Natural is to be completed by December 31, 1960. The point of delivery and redelivery is to be at the existing interconnection between New York Natural's line 280 and Transco's Leidy Line located at Tamarack, Clinton County, Pennsylvania, immediately adjacent to Leidy Storage Pool.

On August 28, 1959 and September 1, 1959, Transco and New York Natural filed their agreement covering the proposed exchange of gas as special rate schedules, respectively titled X–26 and X–8. Said rate schedules have been accepted for filing.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations, and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 30, 1959 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., respecting the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco and New York Natural to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C. in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 16, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9191; Filed, Oct. 29, 1959; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 212]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 27, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the orders in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 62391. By order of October 23, 1959, the Transfer Board approved the transfer to R. W. Taylor Grain Co., Inc., Laddonia, Mo., of Certificate No. MC 116448 Sub 1, issued December 24, 1957, to Frank Kesler, Laddonia, Mo., authorizing the transportation of: Agricultural fertilizer, in bags, in seasonal operations, from National City, Ill., to Laddonia, Mo., serving the intermediate point of East St. Louis, Ill., for pick-up only; and serving points within 25 miles of Laddonia, Mo., as off-route points for delivery only. Jackson A. Wright, 123 East Jackson Street, Mexico, Mo., for applicants.

No. MC–FC 62644. By order of October 23, 1959, the Transfer Board approved the transfer to Orange Ball Bus Co., Inc., Mission, Texas, of Certificates in Nos. MC 74 and MC 74 Sub 2, issued January 15, 1951, and June 28, 1948, respectively to J. E. Pate, doing business as Orange Ball Bus Company, Hidalgo, Texas, authorizing the transportation of: Passengers and their baggage, newspapers, express, and mail in the same vehicle with passengers, between Mission, Texas; and the boundary of the United States and Mexico, near Hidalgo, Texas; and between McAllen, Texas, and the boundary of the United States and Mexico, at Texas Highway 66. Howard J. Stafford, Jr., Professional Arts Building, McAllen, Texas, and Philip Robinson, 401 Perry Brooks Building, Austin, Texas, for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 59-9175; Filed, Oct. 29, 1959; 8:46 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 27, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35784: *Newsprint paper—St. Louis, Mo., to points in Texas.* Filed by Southwestern Freight Bureau, Agent (No. B–7671), for interested rail carriers. Rates on newsprint paper, carloads from St. Louis, Mo., on traffic originating in Canada to specified points in Texas.

Grounds for relief: Equalization of rates via St. Louis, Mo., gateway with rates via Mississippi River crossings and base points in Arkansas, Louisiana, and Texas.

Tariff: Supplement 267 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4204.

FSA No. 35785: *Phosphatic feed supplements from the south to official territory.* Filed by O. W. South, Jr., Agent (SFA No. A3858), for interested rail carriers. Rates on phosphatic feed supplements, as more fully described in the application, carloads from specified producing points in Florida, Louisiana, Mississippi, and Tennessee to destinations in official (including Illinois) territory.

Grounds for relief: Short-line distance formula, grouping and different bases for rates.

Tariff: Supplement 46 to Southern Freight Association, Agent, tariff I.C.C. 1535.

FSA No. 35786: *Iron and steel articles—Gulf ports to Nashville, Tenn.* Filed by O. W. South, Jr., Agent (SFA No. A3859), for interested rail carriers. Rates on iron and steel articles, carloads from Mobile, Ala., and Pensacola, Fla. (import traffic) to Nashville, Tenn.

Grounds for relief: Import competition with New Orleans, La.

Tariff: Supplement 87 to Southern Freight Association, Agent, tariff I.C.C. 1590.

FSA No. 35787: *Substituted service—CRI&P FOR RISS & Company, Inc.* Filed by Middlewest Motor Freight Bureau, Agent, (No. 197), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars (1) between Chicago (Burr Oak), Ill., and Dallas or Fort Worth, Tex., or Kansas City, (Armourdale), Kans., or Oklahoma City, Okla., and (2) between Kansas City (Armourdale), Kans., and Dallas or Fort Worth, Tex., or Denver, Colo., or Oklahoma City, Okla., or St. Louis, Mo., on traffic originating at or

destined to points in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 114 to Middlewest Motor Freight Bureau, Agent, tariff MF-I.C.C. 223.

FSA No. 35788: *Substituted Service—CRI&P for Spector Freight System, Inc.* Filed by Middlewest Motor Freight Bureau, Agent, (No. 199), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between St. Louis, Mo., and Topeka or Wichita, Kans., on traffic originating at or destined to points in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 114 to Middlewest Motor Freight Bureau, Agent, tariff MF-I.C.C. 223.

FSA No. 35789: *TOFC service—Rates between Missouri River crossings in Kansas and Missouri and southwest Missouri.* Filed by Southwestern Freight Bureau, Agent, (No. B-7670), for interested rail carriers. Rates on various commodities moving on class and commodity rates loaded in or on trailers and transported on railroad flat cars between Atchison, Kansas City, Leavenworth, Kans., St. Louis, Kansas City, and St. Joseph, Mo., on the one hand, and southwest Missouri points, on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 43 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4315.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9174; Filed, Oct. 29, 1959; 8:46 a.m.]

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